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CHAPTER 3. PAY ADMINISTRATION**SECTION A. GENERAL PROVISIONS****1. SCOPE AND EXCLUSIONS**

a. **Scope.** This chapter sets forth provisions for determining the compensation of personnel appointed or designated under 38 U.S.C. 7306. It also covers provisions for determining compensation of all probationary, permanent, and temporary full-time, part-time, intermittent and fee basis physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, PA's (physician assistants), EFDA's (expanded-function dental auxiliaries), certified or registered respiratory therapists (RTs), licensed physical therapists (PTs), licensed practical or vocational nurses, LPNs), occupational therapists (OTs), pharmacists, and residents appointed under 38 U.S.C. 7401(1) or 7405. The term "nurse," as used in this chapter, includes nurse anesthetists, unless otherwise specified, but it does not include the Deputy Assistant Under Secretary for Health for Nursing Programs or the Director Nursing Programs, who are appointed under 38 U.S.C. 7306.

b. **Exclusions.** The provisions of this chapter shall not apply to:

(1) Facility Directors and Chiefs of Staff or to facility Chiefs, Nursing Service, except as provided in appendixes B and C of this section.

(2) Physicians appointed to fellowship programs who are compensated under the provisions of VHA Manual M-8, part II, chapter 4.

(3) For employees appointed under 38 U.S.C. 7401(3) or 7405(a)(1)(B), for employment matters not addressed by MP-5, part II, such as performance appraisal, leave, hours of duty, adverse actions, and probationary periods, the provisions of title 5, U.S.C., will apply.

Authority: 38 U.S.C. 501(a), 7403, 7421, 7423(a)-(e).

2. REFERENCES

Sections 7306, 7401(1), 7403, 7404, 7421, 7421, 7423(a)-(e), 7426(c), and 7453-7457 of Title 38, United States Code (see Cover, Contents and Introduction to this part).

3. POLICY

a. **Applicability.** All personnel employed in the VHA (Veterans Health Administration) under the provisions of Title 38, United States Code are paid in accordance with its provisions, those of other applicable statutes, and the requirements of this manual and the VHA Supplement thereto.

b. **Basis for Pay Determinations.** The grade and salary of Title 38 personnel in the VHA are determined on the basis of an individual's qualifications, and at certain levels of

administration, basic pay shall be based on the complexity and responsibilities involved in the specific assignment.

Authority: 38 U.S.C. 501(a), 7403, 7421, 7423(a)-(e).

4. COMPENSATION OF PERSONNEL SERVING UNDER 38 U.S.C. 7306 AND 7401(1)

a. **Per Annum Rates and Pay Ranges.** Personnel employed under 38 U.S.C. 7306 and 7401(1) shall be compensated in accordance with the salary tables set forth at the end of this section (figs. 1A and 2A). These tables show the ranges and intermediate step rates established by the Secretary under 38 U.S.C. 7403 in each salary grade for which a range of rates is established under 38 U.S.C. 7404. PA's and EFDA's are compensated under the appropriate grade of the Nurse Schedule (fig. 2A) as determined in accordance with such qualifications prescribed by the Under Secretary for Health and approved by the Secretary. Other employees not previously identified will be compensated under the General Schedule salary system, but their assignments are not subject to the classification and grading requirements of chapter 51, title 5, U.S.C.

b. **Initial Rates of Pay for Personnel Appointed Under 38 U.S.C. 7306.** The initial rate of pay for personnel appointed under 38 U.S.C. 7306 may be set by the Secretary, upon recommendation of the Under Secretary for Health, at any step rate considered appropriate within the range of rates provided for the grade to which appointed.

c. **Initial Rate of Pay for Physicians, Dentists, Podiatrists, Optometrists, Nurses, PA's and EFDA's Appointed Under 38 U.S.C. 7401(1)**

(1) **All Grades Without Prior VA or Other Federal Civilian Service.** The initial rate of pay for employees covered by this subparagraph shall be the minimum rate of the grade unless a higher step rate is authorized under subparagraph (3) or (4), or paragraph 7 below.

(2) All Grades With Prior VA or Other Federal Civilian Service

(a) A rate above the minimum may be set as the initial rate of pay for personnel with prior VA or other Federal civilian service whose appointment or reappointment is made under 38 U.S.C. 7401(1). The rate may be set by approving authority at any step rate within the appropriate grade which does not exceed the highest step rate previously attained while rendering such service, unless a higher step rate is determined appropriate under subparagraph (3) or (4), or paragraph 7 below.

(b) Unless a rate in excess of the highest previous rate is authorized under subparagraph (3) or (4), or paragraph 7 below, the specific step rate shall be based on a recommendation from the appropriate Professional Standards Board. The recommendation shall compare the quality of service rendered during such individual's prior employment with the quality of service expected of other persons in the same grade who have attained step rates above the minimum rate of the grade. This provision, however, shall not be construed as precluding reappointment of such person at a higher grade for which he or she is qualified.

(c) The following restrictions apply in making highest previous rate determinations:

1. The highest previous step must have been earned in a full-time, part-time or intermittent appointment, not limited to 90 days or less, for a period of not less than 90 days under 1 or more appointments without a break in service.

2. The highest previous step may not include higher rates of pay for being a head nurse, higher rates based on specialized skills or an interim geographic adjustment approved under Executive Order 12826, dated December 31, 1992.

3. The earned step on any special salary rate range approved under 38 U.S.C. 7455 is to be used for the purposes of computing the highest previous step.

4. Above-Minimum Entrance Rates or Special Salary Rate Ranges

a. Above-minimum entrance rates and special salary rate ranges approved under this chapter are the result of recruitment or retention problems at a particular VA health-care facility and higher non-Federal pay rates in a specific labor market. Thus, it is generally inappropriate to use such rates as the highest previous rate when an employee voluntarily moves to a position where lower rates of pay apply.

b. In view of subparagraph a above, above-minimum entrance rates or special salary rates may only be used as the highest previous rate with the prior approval of the facility Director. A copy of this approval shall be filed in the Official Personnel Folder and documented in the "Remarks" section of the VA Form 5-4652, Request for Personnel Action.

(3) Physicians, Dentists, Podiatrists and Optometrists Appointed to Chief Grade and Below; Nurses, PA's and EFDA's Appointed to Senior Grade and Below; and Nurse Anesthetists Appointed at Any Grade. The initial rate of pay for the above personnel may be set by the approving authority at any step rate of the appropriate grade on the basis of the individual's personal qualifications and attainments. The pay determination will be made in accordance with such qualifications as may be prescribed by the Under Secretary for Health and approved by the Secretary.

(4) Physician and Dentists (Other Than Chiefs of Staff) Appointed to Executive Grade and Nurses Appointed at Any Grade. The initial rate of pay for a physician or dentist appointed to Executive grade or a nurse, other than nurse anesthetist, appointed at any grade, may be set by the approving authority at any step rate of the appropriate grade. The assignment of the grade shall be based upon criteria established by the Under Secretary for Health and approved by the Secretary, to cover complexity and responsibility involved in the specific assignment.

d. Salary Adjustments Upon Assignment and/or Grade Change

(1) **Promotion.** An employee covered by this paragraph shall receive, upon promotion, the lowest step rate within the higher grade which exceeds his or her existing step rate by not less than two step increases of the lower grade.

(2) **Change of Assignment and Change to Lower Grade.** In any change of assignment at the same grade level or movement to a lower grade, the employee's salary rate may be set by the approving authority at any rate within the range of rates for the new grade which does not exceed the highest previous rate. This shall be the employee's rate unless a higher rate is authorized under subparagraph c(3) or (4) above, or paragraph 7 below.

(3) **Change to or Within Medical Director Grade.** The salary rate of a physician or dentist upon change to or within Medical Director grade, may be set by the Secretary, upon recommendation of the Under Secretary for Health, at any step rate considered appropriate for the level to which assigned.

(4) **Associate Investigators.** Notwithstanding subparagraph c(2) above, the grade and equivalent salary rate held by an employee prior to his or her becoming an Associate Investigator may be restored by the approving authority, upon recommendation of the appropriate Professional Standards Board, when such training is completed. Likewise, the rate may be adjusted further to include periodic step increases which the employee would have earned had the employee not become an Associate Investigator. The above provision shall not be construed as precluding adjustment to a higher grade or rate of pay for which the employee otherwise may qualify upon reappointment upon completion of training.

e. Salary Payments for Personnel Appointed Under 38 U.S.C. 7306, and Physicians, Dentists, Podiatrists and Optometrists Appointed Under 38 U.S.C. 7401(1). Employees covered by this subparagraph are employed on the basis of availability for duty 24 hours a day, 7 days a week. No extra amount in addition to the regular per annum rate shall be payable to these employees for duty on a legal holiday, Saturday or Sunday, at night, on overtime, or for on-call duty.

f. Salary Payments for Nurses, PA's and EFDA's. Probational and permanent full-time nurses, PA's and EFDA's are employed on the basis of a 24-hour basic workweek or a 40-hour basic workweek, as indicated in chapter 7. Computation of regular pay for employees on the 40-hour basic workweek shall be based on a basic hourly rate, derived by dividing the employee's annual rate of basic pay by 2,080. The regular pay for full-time nurses on the Baylor Plan (i.e., the 24-hour basic workweek) shall be based on a basic hourly rate derived by dividing the employee's annual rate of basic pay by 1,248. Computation of additional pay under subparagraph g below for a nurse (including a full-time nurse on the Baylor Plan), PA or EFDA shall be based on a basic hourly rate, derived by dividing the employee's annual rate of basic pay by 2,080. A fraction resulting from any computation shall be adjusted to the nearest cent, counting one-half cent and over as a whole cent. Except as otherwise provided in subparagraph g below, pay for service of less than an hour will be computed in increments of 15 minutes.

g. **Additional Pay for Nurses, PA's and EFDA's.** In addition to basic pay, a probational or permanent full-time nurse, PA or EFDA shall receive additional pay as provided below. *(Note: Notwithstanding subparagraphs (1) through (7) below, a full-time nurse on the Baylor Plan may not receive additional pay for service performed during the 24-hour basic workweek.)*

(1) **Tour Differential Pay.** A nurse, PA or EFDA who performs service on a tour of duty within the period commencing at 6 p.m. and ending at 6 a.m. shall receive additional pay for each hour of service on such tour provided 4 or more hours of the tour fall between 6 p.m. and 6 a.m. When fewer than 4 hours fall between 6 p.m. and 6 a.m., a nurse, PA or EFDA shall receive differential pay for each hour of service performed between these hours only. A nurse, PA or EFDA shall receive tour differential at the rate of 10 percent of their basic hourly rate of pay, unless a higher tour differential is authorized under section D of this chapter.

(2) **Weekend Pay (Premium Pay for Service on Saturday or Sunday).** A nurse, PA or EFDA who performs service on a tour, any part of which is between midnight Friday and midnight Sunday, shall receive premium pay for each hour of service on such tour. Premium pay for service under this subparagraph is equal to 25 percent of the employee's basic hourly rate of pay unless a higher rate is approved under Section D of this Chapter.

(3) **Holiday Pay**

(a) A nurse, PA or EFDA with a 40-hour basic workweek who performs service on a holiday designated by Federal statute or Executive order shall receive, for nonovertime service, additional pay at a rate equal to the employee's basic hourly rate of pay. This shall be the applicable rate for holiday pay unless a higher rate is authorized under section D of this chapter. When the basic workweek of a nurse, PA or EFDA includes portions of two tours on a holiday, the tour which commences on the holiday shall be treated as the holiday for pay and leave purposes. When assigned to duty on a holiday, a nurse, PA or EFDA shall receive a minimum of 2 hours of holiday pay.

(b) A full-time nurse on the Baylor Plan shall only receive holiday pay for nonovertime holiday service performed outside the nurse's 24-hour basic workweek.

(4) **Overtime Pay**

(a) **Call-Back Overtime**

1. Any overtime on a day when a nurse, PA or EFDA was not scheduled to work, or for which an employee is required to return to his or her place of employment, shall be deemed to be a minimum of 2 hours in duration, regardless of whether or not service is performed for a full 2 hours. When an employee is called back from an on-call status to perform overtime work, the call-back overtime provisions shall be applied upon return to duty of the employee.

2. To be eligible for the full 2 hours of overtime, the employee must be called into work at a time which is outside of and unconnected with his or her basic workweek (45 Comp. Gen. 53).

(b) General Provisions for the Payment of Overtime Pay

1. Leave without pay is not included when computing hours of work for overtime purposes.
2. Overtime must be at least 15 minutes duration in a calendar day to be creditable for overtime purposes.
3. Overtime is payable for service performed in excess of 40 hours in an administrative workweek, or in excess of 8 hours in a day, whichever is greater.

(c) Full-Time Nurses on the Baylor Plan. Full-time nurses on the Baylor Plan shall be paid overtime pay in accordance with section E of this chapter.

(d) Higher Rates of Overtime Approved Under Section D of this Chapter. The Under Secretary for Health may approve higher rates of overtime pay under section D of this chapter. Such rates are authorized at individual VA health-care facilities and based on the recruitment or retention needs of that facility, as well as corresponding premium pay practices in the local labor market. Instructions concerning the administration of overtime rates under section D of this chapter will be provided with each authorization.

(5) On-Call Duty and Pay. A nurse, PA or EFDA officially scheduled to be on-call outside of his or her regular duty hours shall receive 10 percent of his or her applicable overtime rate (under subpar. (4) above or section D of this chapter) for each hour of on-call duty. When called back to perform overtime work, such personnel shall receive overtime pay in accordance with subparagraph (4) above, or section D of this chapter, as appropriate. On-call pay shall be suspended during the period of actual overtime duty; when released from overtime duty, such personnel shall return to the remaining scheduled on-call duty, if any, and receive on-call pay accordingly. While in an on-call status, such personnel shall be available for prompt response to perform service. In the event of incapacitation or unavailability during the period for which scheduled to be on-call, such unavailability shall be promptly reported by the employee to the authorizing official or other responsible official. An employee who is relieved from scheduled on-call duty as a result thereof shall not receive on-call pay during the period from which relieved. An employee who is excused from duty on a holiday may receive on-call duty during such hours of excusal. Authorizing officials for on-call duty shall be the same officials authorized to order and approve overtime, as indicated in chapter 7, this part.

(6) Additional Pay During Leave and Authorized Absence. Except for on-call duty and pay, entitlement of a nurse, PA or EFDA to additional pay during periods of leave and authorized absence shall be as indicated below:

- (a) When on military leave, court leave, or authorized absence as indicated in paragraph 7 c, d, or g, respectively of chapter 7, this part, a nurse, PA or EFDA shall be entitled to such pay as he or she would otherwise have received.

(b) When on annual or sick leave, a nurse, PA or EFDA shall be entitled to tour differential pay otherwise appropriate, provided the total amount of such leave in a pay period is fewer than 8 hours.

(c) When not required to perform service on a scheduled tour because of a holiday or the day observed as a holiday, a nurse, PA or EFDA shall be entitled to tour differential pay otherwise appropriate.

(7) **Additional Pay Computations.** When a nurse, PA or EFDA is entitled to more than one type of additional pay for the same period of service, the amounts of such pay shall be computed separately on the basis of the employee's basic hourly rate of pay. Additional pay for these employees shall not be considered basic pay for the purpose of civil service retirement, Federal Employees Group Life Insurance, compensation for work injury, lump-sum leave payments, severance pay or other benefits relating to basic pay.

(8) Compensatory Time Off in Lieu of Regular and Irregular or Occasional Overtime

(a) **Granting Compensatory Time Off in Lieu of Overtime Pay.** An official authorized to approve overtime work may, at the written request of an eligible employee, grant such employee compensatory time off from his or her scheduled tour of duty in lieu of overtime pay. The amount of the compensatory time off will equal the amount of time spent in overtime work.

(b) **Limit on Compensatory Time.** The aggregate compensation limitation contained in 5 U.S.C. 5547 does not apply to employees covered by this section.

(c) Time Limit on Compensatory Time

1. Compensatory time should be taken as soon as possible after it is earned, but not later than the end of the seventh pay period following the pay period in which it is earned.

2. If the compensatory time is not taken within the time limit prescribed above because of exigencies of the service, the employee will be paid for the overtime work at the overtime rate. If the compensatory time off is not taken within this period because of personal reasons not due to exigencies of service, the right to compensatory time off and overtime pay for the duty is lost.

3. In cases of interstation transfers, compensatory time off must be taken or paid for prior to the effective date of transfer. Under no circumstances will the obligation for compensatory time off be transferred to the receiving station.

4. The date of separation resulting from a staffing adjustment and failure to transfer may be administratively extended to include any compensatory time off due. However, where, due to circumstances beyond the control of the employee, the compensatory time off is not taken prior to separation, and no extension of the separation date is granted, overtime is payable in lieu of the compensatory time off (26 Comp. Gen. 750).

h. **Travel Status.** A period of officially ordered and approved travel will be considered service if:

- (1) Such travel occurs during the employee's tour of duty; or
- (2) Such travel:
 - (a) Involves the performance of services while traveling;
 - (b) Is incident to travel that involves the performance of services while traveling;
 - (c) Is carried out under arduous conditions; or
 - (d) Results from an event which could not be scheduled or controlled administratively.

i. **Pay Determinations for Individuals Appointed Under 7401(3).** RTs, PTs, LPNs, OTs, and pharmacists will be compensated from the General Schedule, with grades and step rates determined in accordance with the provisions of VA Manual MP-5, part II. Hourly rates of pay for employees appointed under 38 U.S.C. 7401(3) will be derived by dividing the annual rate of pay by 2,087.

(1) Except as provided by subpar. (3) below, the initial rates of pay shall be determined as follows:

(a) **All Grades Without Prior VA or Other Federal Civilian Service.** The initial rate of pay shall be the minimum rate of the grade unless a higher rate is authorized under subpar. (c) below.

(b) **All Grades With Prior VA or Other Federal Civilian Service.** When determining an employee's rate of pay on appointment or reappointment, the approving official may set the pay rate at any step rate of the grade which does not exceed the maximum payable rate rule (see 5 CFR 531.203(c)), unless a higher rate is approved under subpar. (c) or (3) below. The specific pay rate shall be based on the recommendation of the appropriate Standards Board which is to compare the quality of service rendered during the individual's prior employment with the quality of service expected of other persons in the same grade who have attained pay rates above the minimum rate of the grade. The provisions of this paragraph are not to be construed as precluding reappointment at a higher grade if the person is qualified.

1. **Restriction on Using Special Salary Rates.** The restriction concerning highest previous rate determinations contained in par. 4c(2)(c) above apply to maximum payable rate determinations made under this subparagraph. In addition, special salary rates approved under 5 U.S.C. 5305 may be used as the maximum payable rate with the prior approval of the facility Director. A copy of the approval shall be filed in the OPF and documented in the "Remarks" section of the SF 50-B.

2. **Other Restrictions.** A rate received by an employee in an assignment from which he or she has been removed for inefficiency, disciplinary reasons, or failure to complete a supervisory

probationary period, by reassignment, reduction in grade, or separation, should not be used as a basis for maximum payable rate determinations.

3. **Retroactive Adjustment of Salary Rates.** If sufficient data concerning prior Federal employment is not available to make a salary determination, the rate shall be established initially at the lowest clearly appropriate dollar amount within the grade. The following statement will be placed in the "Remarks" section of the SF 50-B: "Pay rate subject to retroactive adjustment upon verification of prior Federal service."

(c) **Appointment of Individual Above the Minimum Rate of Grade.** Authorized officials may, after considering an individual's existing pay, higher or unique qualifications, or special needs of the VA, appoint personnel covered by this subparagraph at rates of pay above the minimum rate of the appropriate grade. Criteria for approving such rates are contained in VA Directive 5103.7. Upon specific written request, and on a quarterly basis, the union will be provided with the names of bargaining unit employees appointed above the minimum rate of the grade and the grade and step to which appointed.

(3) **Salary Adjustment on Certain Position or Assignment Changes**

(a) **Promotion.** Employees promoted to a higher grade are entitled to have their pay set in accordance with 5 U.S.C. 5334(b), unless they are entitled to a higher rate of pay under the provisions of par. i(1)(b) or the grade and pay retention provisions of MP-5, part I, chapter 536.

(b) **Mandatory Restoration.** Personnel entitled to restoration to duty may have their pay rate set under par. i(1)(b) or (c). However, as a minimum, they shall receive the rate to which they are entitled under 5 CFR 531.406(c).

(c) **Simultaneous Pay Changes.** Employees eligible for two salary changes the same day shall have the changes processed in the order which provides the maximum benefit. The only exception to this rule is when a general increase in General Schedule salary rates is effective on the same day as a promotion or other action affecting an employee's rate of basic pay. In these cases, the general increase of General Schedule rates is to be processed first.

(d) **Request for Information from Union.** Upon specific written request, and on a quarterly basis, the union will be provided with the names of bargaining unit employees whose pay is adjusted under this subpar. (3).

(4) **Above-Minimum Entrance Rates and Special Salary Rate Ranges.** Notwithstanding the provisions of paragraphs 4a and b of Section C to this chapter, the designated official may approve above-minimum entrance rates and special salary rate ranges for personnel appointed under 38 U.S.C. 7401(3). The provisions of Section D of this chapter and VHA Directive 10-94-124 shall govern the approval, adjustment and termination of such rates.

(5) **Premium Pay.** Except as authorized under Section D to this chapter, personnel appointed under 38 U.S.C. 7401(3) shall be entitled to premium pay under chapter 55 of title 5, U.S.C., and the Fair Labor Standards Act. If so authorized, these employees shall receive

additional pay under 38 U.S.C. 7453, when necessary to recruit or retain such personnel. Employees may not simultaneously receive premium pay under chapter 55 of title 5, U.S.C., and additional pay under title 38, U.S.C.

Authority: 38 U.S.C. 501(a), 7403, 7404, 7421, 7423(a)-(e), 7426(c), 7453-7457

5. PERIODIC STEP INCREASES FOR PERSONNEL SERVING UNDER 38 U.S.C 7401(1) AND 7401(3)

A within-grade advancement plan for physicians, dentists, podiatrists, optometrists, nurses, PA's and EFDA's appointed under authority of 38 U.S.C. 7401(1) is established under authority provided the Secretary in 38 U.S.C. 7403. (*Note: This paragraph does not apply to facility Directors and Chiefs of Staff or to facility Chiefs, Nursing Service who are compensated under apps. B and C of this section, respectively.*) Periodic step increases under this plan are granted to any physician, dentist, podiatrist, optometrist, nurse, PA or EFDA who is receiving less than the maximum rate of his or her grade. The employee shall be advanced to the next higher step rate within such grade subject to the eligibility requirements and completion of the appropriate waiting period, as indicated below. Periodic step increases for RTs, PTs, LPNs, OTs, and pharmacists shall receive step advancements under the provisions of the General Schedule salary system and the provisions of VA Manual MP-5, part I, chapter 531, section D.

a. Conditions of Eligibility

(1) That an employee's work is of an acceptable level of competence in accordance with criteria established by the Under Secretary for Health and approved by the Secretary. (See ch. 5, this part.)

(2) That no "equivalent increase" in compensation was received during the period under consideration.

(3) That the benefit of successive step increases shall be preserved for any person whose continuous service is interrupted by active military duty.

b. Waiting Period. The minimum time requirement of creditable service without an equivalent increase is either 52 or 104 weeks of creditable service as indicated below:

(1) Physicians, dentists, podiatrists, optometrists - upon completion of a 104-week waiting period.

(2) PA's and EFDA's at step 1 or 2 on the *regular* rate range of Junior or Associate grade-upon completion of a 52-week waiting period.

(3) PA's and EFDA's (including *any* PA or EFDA on an above-minimum entrance rate or special salary rate range)-upon completion of a 104-week waiting period.

(4) Nurses in grade Nurse I, Level 1 at steps 1 through 3 of the grade - upon completion of 52 calendar weeks of creditable service.

(5) Nurses in grade Nurse I, Level 1 at steps 4 and higher of the grade - upon completion of 104 calendar weeks of creditable service.

(6) Nurses in grade Nurse I, Level 2 at steps 1 through 3 of the level - upon completion of 52 calendar weeks of creditable service.

(7) Nurses in grade Nurse I, Level 2 at steps 4 and higher - upon completion of 104 calendar weeks of creditable service.

(8) Nurses in grade Nurse I, Level 3 (for registered nurses only) at steps 1 through 3 of the level - upon completion of 52 calendar weeks of creditable service.

(9) Nurses in grade Nurse I, Level 3 (for registered nurses only) at steps 4 and higher - upon completion of 104 calendar weeks of creditable service.

(10) Nurses in grades Nurse II, III, IV, and V (except for Chiefs, Nursing Service) - upon completion of 104 calendar weeks of creditable service.

(11) Chiefs, Nursing Service, will not receive periodic step increases, but rather annual rate reviews.

c. **Creditable Service.** In computation of waiting periods for the purpose of periodic step increases, the following service shall be counted as creditable:

(1) Continuous paid full-time, part-time, or intermittent assignment on an indefinite or time limited basis, in the VHA under authority of 38 U.S.C. 7401(1) or 7405(a).

NOTE: The period spent in part-time service is covered as though it had been performed on the basis of a full week. For an intermittent employee, as defined in chapter 2 of this part, 1 day of credit is given for each day of service in a pay status; 260 compensable days are equivalent to a waiting period of 52 calendar weeks, and 520 such days are equivalent to a waiting period of 104 calendar weeks; this time must extend over a period of not less than 52 or 104 calendar weeks, as appropriate.

(2) Time elapsing on annual, sick or other leave with pay, including periods for which annual or sick leave is advanced.

(3) Leave without pay not to exceed in total 30 calendar days for physicians, dentists, podiatrists, and optometrists, or 176 hours for PA's and EFDA's within the period required for one periodic step increase.

(4) For nurses, leave without pay not to exceed 80 hours for periodic step advancement when the waiting period is 52 calendar weeks of calendar service, or not to exceed 160 hours

when the waiting period is 104 calendar weeks of creditable service. (*Note: The number of hours of LWOP taken by nurses on the Baylor Plan shall be multiplied by 1.667 when making determinations under this subparagraph.*)

(4) Paid employment on a full-time, part-time, or intermittent basis under the authority of 38 U.S.C. 7401(1), 7405(a)(1), or 213 rendered prior to a nonpay period (including separation), provided that such nonpay period did not exceed 52 calendar weeks.

(5) Active military duty when otherwise creditable service is interrupted.

(6) Any period of 120 calendar days or less between discharge or termination of active military service and re-employment under mandatory provisions of any statute or regulation.

(7) Actual service rendered prior to an extended absence on leave without pay, regardless of the length of such absence, which is due to injury or illness incurred as a direct result of employment.

(8) Leave of absence granted to an employee who is receiving compensation for work injuries under 5 U.S.C. ch. 81. (See ch. 810, of MP5, part I.)

d. Equivalent Increase in Compensation. The total of any increase or increases in basic compensation (except general increases in basic compensation provided by statute) which is equal to the smallest step increase in any grade in which the employee has served during a period under consideration constitutes an equivalent increase. Instructions regarding equivalent increase determinations, when above-minimum entrance rates or special salary rate ranges are approved, are contained in section D of this chapter.

e. Effective Date. Periodic step increases shall be made effective at the beginning of the next pay period following the completion of the required waiting period and compliance with other required conditions of eligibility. When a step increase is delayed beyond its proper effective date solely through an administrative error or oversight, the step increase shall be made retroactively effective as of the date it was properly due. When an employee is promoted in grade on the date of a periodic step increase, he or she shall be credited with the periodic step increase. The step increase in the former grade then becomes the "existing rate of pay" for computing the salary increase upon promotion.

Authority: 38 U.S.C. 501(a), 7403, 7421, 7423(a)-(e).

6. ADMINISTRATIVE PAY INCREASES FOR PERSONNEL SERVING UNDER 38 U.S.C 7306

For any position below Medical Director grade for which a range of rates is provided, an administrative pay increase to the next higher step rate available for use shall be granted upon completion of 104 weeks of service at the lower rate within such range to an official (other than facility Directors) appointed under 38 U.S.C. 7306 whose compensation is fixed under 38 U.S.C. 7404. This provision applies to the Director of Chaplain Service, Director of Dietetic Service,

Director of Optometric Service, Director of Pharmacy Service, and Director of Podiatric Service. This does not apply to the Assistant Deputy Under Secretary for Health for Nursing Programs, whose pay is set under Subchapter IV of Chapter 74 of Title 38 U.S.C.

Authority: 38 U.S.C. 501(a), 7403, 7421, 7423(a)-(e).

7. SPECIAL BASIC PAY ADJUSTMENTS FOR PERSONNEL SERVING UNDER 38 U.S.C. 7306, 7401(1) or 7405(a)(1).

a. **Approval of Special Basic Pay Rate.** In unusual circumstances that are not otherwise covered by this chapter, the Secretary or designee may initially or subsequently adjust the salary of any person serving under 38 U.S.C. 7306, and any employee above Executive grade on the Physician and Dentist Pay Schedule, to any one of the approved step rates of the grade held. Similar action may be taken by the appointing official on the pay of any physician or dentist in Executive grade, and by the appointing official, for any other employee covered by this section.

b. **Rate Readjustment Upon Reassignment.** Upon change in assignment without change in grade of an employee who has been granted a special basic rate adjustment authorized in accordance with subparagraph a above, the appropriate appointing official may readjust the rate by fixing it at any step of the grade which is no lower than the step rate the employee otherwise would normally have earned under paragraph 5 or 6. This authority is available for use when a change in assignment is made:

(1) To a locality or type of duty where circumstances would not be considered sufficiently unusual to warrant continuation of the special basic pay rate;

(2) At the employee's request and primarily for his or her benefit and convenience; or

(3) For personal cause.

Authority: 38 U.S.C. 501(a), 7403, 7421, 7423(a)-(e).

8. COMPENSATION OF PERSONNEL SERVING UNDER 38 U.S.C. 7405

In accordance with authority delegated by the Secretary, the Under Secretary for Health shall fix rates of pay of temporary full-time, part-time and intermittent physicians, dentists, podiatrists, optometrists, nurses, PA's and EFDA's, residents, consultants, attendings and others employed on a fee basis. Basic policy requirements for determining compensation of such personnel are as follows:

a. **Temporary Full-Time Physicians, Dentists, Podiatrists, Optometrists, Nurses, PA's and EFDA's.** Upon a temporary full-time appointment under 38 U.S.C. 7405, the pay of a distinguished physician shall be set at a salary rate equivalent to a rate established for Medical Director grade, Section 7306 Schedule, as determined appropriate by the Under Secretary for Health. Upon appointment, reappointment or promotion under 38 U.S.C. 7405, the pay of all

other physicians, dentists, podiatrists, optometrists, nurses, PA's and EFDA's shall be determined by the Under Secretary for Health in a manner consistent with the requirements set forth in paragraph 4 for probational and permanent full-time employees.

(1) **Additional Pay.** Temporary full-time physicians, dentists, podiatrists, and optometrists shall not receive extra pay for duty performed on a legal holiday, on a Saturday or Sunday, at night, on overtime, or for on-call duty. However, regular straight time pay is authorized for physicians, dentists, podiatrists, and optometrists for time off on a holiday or nonworkday designated by Federal Statute or Executive order when absence from duty is approved in accordance with chapter 7, this part. Consistent with the provisions applicable to probational and permanent full-time nurses, PA's and EFDA's, similar temporary full-time employees shall receive additional pay on the same basis as outlined in paragraph 4 above.

(2) **Rate Adjustments.** Upon completion of the normal waiting period requirements for granting periodic step increases to regular full-time employees serving under 38 U.S.C. 7401(1), the pay of a temporary full-time employee may be adjusted to a rate which is equivalent to the next higher step rate in the appropriate grade. In no case, however, will such rate exceed that which would have been earned through periodic within-grade advancement pursuant to paragraph 5.

b. **Part-Time and Intermittent Physicians, Dentists, Podiatrists, Optometrists, Nurses, PA's and EFDA's.** Upon appointment, reappointment or promotion under 38 U.S.C. 7405, the pay of part-time and intermittent physicians, dentists, podiatrists, optometrists, nurses, PA's and EFDA's shall be determined by the Under Secretary for Health in a manner consistent with paragraph 4 of this chapter.

(1) **Salary Payments.** Part-time and intermittent physicians, dentists, podiatrists, optometrists, nurses, PA's and EFDA's shall receive, dependent upon the number of hours worked each week, the proportionate amount of the approved per annum rate appropriate to the grade appointed. The standard VA workweek of 40 hours shall serve as the basis for computation of the salary. The Under Secretary for Health will establish a standard limitation on the number of hours of employment. The Under Secretary for Health, or designee, may make an exception to such limitation on an individual basis when required in the interest of medical need.

(2) **Additional Pay.** Part-time and intermittent physicians, dentists, podiatrists and optometrists shall not receive extra pay for duty performed on a legal holiday, on a Saturday or Sunday, at night, for overtime or for on-call duty. However, regular straight time pay is authorized for part-time physicians, dentists, podiatrists and optometrists for time off on a holiday or nonworkday designated by Federal Statute or Executive order when absence from duty is approved in accordance with chapter 7 of this part. Consistent with the provisions applicable to full-time nurses, part-time and intermittent nurses shall receive additional pay on the same basis as outlined in paragraph 4 above, except as indicated below:

(a) **Holiday Pay.** A part-time nurse shall be entitled to holiday pay only for service performed on the actual calendar holiday. A part-time nurse, PA or EFDA may be excused for a holiday which occurs within such employee's regularly scheduled tour of duty.

(b) **On-Call Pay.** A part-time or intermittent nurse, PA or EFDA shall be entitled to on-call pay when appropriate. When called back to duty, such an employee shall receive pay at the basic hourly rate for nonovertime work and at the overtime rate for overtime work.

(3) **Rate Adjustments.** Part-time and intermittent physicians, dentists, podiatrists, optometrists, nurses, PA's or EFDA's shall be granted periodic step increases under the same provisions applicable to full-time employees under paragraph 5 above, except as follows:

(a) **Waiting Period Requirements for Intermittent Employees**

1. 260 days of creditable service in a pay status over a period of not less than 52 calendar weeks, for advancement of intermittent PA's and EFDA's to steps 2 and 3 on the *regular* range of Junior and Associate grades.

2. 520 days of creditable service in a pay status over a period of not less than 104 calendar weeks, for advancement of (1) intermittent physicians, dentists, podiatrists and optometrists to step 2 and above for all grades, and (2) all intermittent PA's and EFDA's, except those in subparagraph 1 above. This includes *any* PA or EFDA on an above-minimum entrance rate or special salary rate range.

3. 260 days or 520 days of creditable service over a period of not less than 52 or 104 calendar weeks, as applicable, for waiting periods of 52 or 104 calendar weeks, as applicable, for nurses at all Nurse grades and Levels.

(b) **Leave Without Pay Service Credit for Part-Time Employees.** In computation of the waiting periods for part-time employees, leave without pay may be credited in an amount not to exceed 22 workdays within the period of service required for one periodic step increase.

c. **Residents.** Residents are authorized to receive stipends approved by the Under Secretary for Health or designee. Under criteria and procedures established by the Under Secretary for Health, these stipends will be related as closely as practicable to local conditions of remuneration for residents in the hospitals having a major impact on VA's recruitment of house staff. Irrespective of the number of hours of service rendered in a day or a week, by reason of duty at night, on overtime, on Saturday or Sunday, or a legal holiday, or on-call, no compensation additional to the per annum rate shall be payable to residents. (See, however, par. 3A.09d(4) of the VHA Supplement to this section concerning use of noncareer VA residents as admitting physicians.)

d. **Consultants, Attendings and Others Employed on a Fee Basis.** The compensation of consultants, attendings and others employed on a fee basis shall be fixed by the Under Secretary for Health, or designee, to conform, insofar as possible, with practices prevailing within the profession concerned. Per annum ceiling limitations shall be imposed by the Under Secretary for Health on such pay and revised from time to time as necessary in the public interest for both patient care and treatment. Except as may be specifically authorized by the Under Secretary for Health or designee, these limitations shall cover all types of services rendered VA, and are to be

applied uniformly. The foregoing requirements, however, shall not obligate VA to utilize the services of these persons to the maximum extent established by the per annum salary ceiling limitations.

e. Graduate Nurses (Formerly Graduate Nurse Technicians) and Nurses Pending Graduation (Formerly Nurse Technicians Pending Graduation).

(1) Graduate nurses appointed as registered nurses will receive a rate of basic pay commensurate with the minimum rate of the grade and level for which they qualify. Students enrolled in an approved school of nursing, who possess an active, current license to practice nursing in a State, Territory, Commonwealth of the United States or in the District of Columbia, appointed as a nurse pending graduation shall receive the minimum rate of pay for Nurse I, Level 1. The above basic rates of pay shall apply unless the graduate nurse or the nurse pending graduation is entitled to a higher rate of basic pay under the highest previous step rule.

(2) Graduate nurses and nurses pending graduation shall receive additional pay on the same basis as outlined in this chapter for registered nurses. Compensatory time off in lieu of regular and irregular or occasional overtime may be authorized.

f. Student Nurse Technicians. Student nurse technicians shall be compensated under the provisions of paragraph 3A.11 of the VHA Supplement to this chapter.

g. RTs, PTs, LPNs, OTs, and Pharmacists. Individuals in these occupations will be compensated as noted in par. 4i, above.

h. Pay for Graduate Practical Nurses, Graduate Vocational Nurses, Graduate Physical Therapists, Graduate Occupational Therapists, and Graduate Pharmacists

(1) Employees pending licensure may be appointed under 38 U.S.C 7405 to temporary appointments not to exceed 1 year and shall receive a basic rate of pay commensurate with the minimum rate of the grade for which they qualify, unless:

(a) An above-minimum entrance rate or special salary rate range has been approved for similar licensed employees, in which case the higher rate would apply; or

(b) Because of prior Federal service the employee is given a higher rate under the highest previous rate rule.

(2) Employees shall receive premium pay in accordance with chapter 55 of title 5, U.S.C., and the Fair Labor Standards Act, unless their positions meet one of the applicable exemptions contained in 5 CFR 551, part B.

(3) If authorized, employees may receive premium pay on the same basis as nurses in accordance with the provisions of section D of this chapter.

Authority: 38 U.S.C. 501(a), 7403, 7421, 7423(a)-(e).

Section 7306 Schedule	Per Annum Salary Rates								
	1	2	3	4	5	6	7	8	9
Director of Optometry Service	\$85,059	\$87,897	\$90,731	\$93,566	\$95,764	\$97,293	\$100,074	\$102,857	\$105,636
Director of Dietetic Service	\$85,059	\$87,897	\$90,731	\$93,566	\$95,764	\$97,293	\$100,074	\$102,857	\$105,636
Director of Pharmacy Service	\$85,059	\$87,897	\$90,731	\$93,566	\$95,764	\$97,293	\$100,074	\$102,857	\$105,636
Director of Chaplain Service	\$85,059	\$87,897	\$90,731	\$93,566	\$95,764	\$97,293	\$100,074	\$102,857	\$105,636
Director of Podiatric Service	\$85,059	\$87,897	\$90,731	\$93,566	\$95,764	\$97,293	\$100,074	\$102,857	\$105,636
Director, Nat'l Center for Public Health	Min. \$72,525								max. \$105,636
Deputy ACMD of Nursing Programs	Pay for this position is set by the Under Secretary for Health under 38 U.S.C. 7451								
Medical Director*	\$97,687	\$99,859	\$102,031	\$104,202	\$106,373	\$108,545	\$110,714		
Asst. Under Secretary for Health*	\$114,494								
Assoc. Deputy Under Secretary for Health*	\$117,971								
Deputy Under Secretary for Health	\$123,168	The rate of basic pay for the Deputy Under Secretary for Health is limited by 38 U.S.C. 7404(d)(1) to the rate payable for Level IV of the Executive Schedule, or \$118,400 per annum, as of January 4, 1998.							
Under Secretary for Health	\$125,900	The rate of basic pay for the Under Secretary for Health is set by 5 U.S.C. 5314 at the rate payable for Level III of the Executive Schedule, or \$125,900 per annum, as of January 4, 1998.							
Effective January 4, 1998, pursuant to Executive Order 13371, dated December 29, 1997									

**The rate of basic pay for employees at these rates is limited by 38 U.S.C. 7404(d)(2) and 5 U.S.C. 5315 or 5316 to the rate payable for Level V of the Executive Schedule, or \$110,700 per annum as of January 4, 1998.*

Figure 1A. Basic Salary Rates for Veterans Health Administration Officials Serving Under 38 U.S.C. 7306

Section 7404 Schedules			Per Annum Salary Rates									
Physician and Dentist Schedule	Clinical Podiatrist and Optometrist Schedule	Nurse Schedule for PAs and EFDAs	1	2	3	4	5	6	7	8	9	10
		Junior Grade	\$22,258	\$23,000	\$23,742	\$24,484	\$25,226	\$25,968	\$26,710	\$27,452	\$28,194	\$28,936
		Assoc. Grade	26,037	26,905	27,773	28,641	29,509	30,377	31,245	32,113	32,981	33,849
		Full Grade	30,257	31,266	32,275	33,284	34,293	35,302	36,311	37,320	38,329	39,338
Assoc. Grade	Assoc. Grade	Inter. Grade	36,609	37,829	39,049	40,269	41,489	42,709	43,929	45,149	46,369	47,589
Full Grade	Full Grade	Senior Grade	43,876	45,339	46,802	48,265	49,728	51,191	52,654	54,117	55,580	57,043
Inter. Grade	Inter. Grade	Chief Grade	52,176	53,915	55,654	57,393	59,132	60,871	62,610	64,349	66,088	67,827
Senior Grade	Senior Grade	Asst. Director	61,656	63,711	65,766	67,821	69,876	71,931	73,986	76,041	78,096	80,151
Chief Grade	Chief Grade	Director Grade	72,525	74,943	77,361	79,779	82,197	84,615	87,033	89,451	91,869	94,287
Executive Grade			78,543	81,161	83,778	86,395	89,013	91,631	94,249	95,764	97,534	100,100
Director Grade			85,059	87,897	90,731	93,566	95,764	97,293	100,074	102,857	105,636	
Effective January 4, 1998, pursuant to Executive Order 13071, dated December 29, 1997												

Figure 2A. Basic Salary Rates for Personnel Appointed in the Veterans Health Administration Under 38 U.S.C. 7401(1) and 7405(a)(1)(A)

The pay ranges contained herein linked to complexity level do not apply.

Figure 3A. Salary Rate Ranges by Complexity Level, Facility Directors and Chiefs of Staff

The pay ranges contained herein linked to complexity level do not apply

Figure 4A. Salary Rate Ranges by Complexity Level, Facility Chiefs, Nursing Service

PAY CONVERSION INSTRUCTIONS FOR TITLE 38 STATUTORY RATES

Subject to the provisions of 38 U.S.C. 7404(a) and (b), the rates of basic pay for personnel appointed under 38 U.S.C. 7306 or 7401(1) shall be adjusted on the effective date of a general pay increase as follows:

1. Personnel receiving a rate of basic pay immediately prior to the effective date of a general pay increase at one of the step rates of a grade or position on the pay schedules applicable to appointees under section 7306 or 7401(1) of Title 38, U.S.C. shall receive the rate of basic pay for the corresponding numerical step rate of that grade or position which is in effect on and after the effective date of the increase.
2. Rates of basic pay for temporary full-time, part-time and intermittent physicians, dentists, podiatrists, optometrists, nurses, PA's, EFDA's and career residents shall be adjusted in the same manner authorized for personnel in paragraph 1 above.
3. Rates of basic pay for VHA General Schedule patient care employees receiving above-minimum entrance rates or special salary rate ranges shall be adjusted in accordance with paragraph 7d, section C, chapter 3, part II, MP-5.
4. The salary rate of an employee receiving a retained rate of pay under MP-5, part II, chapter 3, section D, paragraph 8a(2) shall be increased as described therein, specifically, by 50 percent of the increase in the maximum rate of the grade. In computing the new rate, fifty (50) cents or more shall be rounded to the next higher dollar amount.

PAY POLICIES FOR FACILITY DIRECTORS AND CHIEFS OF STAFF

1. SCOPE

The provisions of this appendix apply to facility Directors and Chiefs of Staff appointed under 38 U.S.C. 7401(1) or 7405(a)(1).

2. PER ANNUM RATES AND PAY RANGES

Personnel covered by this appendix shall be compensated in accordance with the salary table contained in figure 2A of this section.

3. APPOINTMENTS AND REASSIGNMENTS

a. **Chiefs of Staff.** Facility officials will forward Chiefs of Staff (COSs) recommendations to the Management Support Office (10A2) in VA Central Office. The COS program staff in that office will provide a technical review of the nomination, arrange for appropriate concurrences and approvals of VHA Headquarters officials as necessary, and forward the completed nomination package to the VISN Director for approval. The recommendation of the Central Office PSB (Professional Standards Board) will be required for all COSs receiving their initial VA appointments, reappointments following a break in service, or initial conversions to 7401(1) appointments

b. **Facility Directors.** The VHA ERB (Executive Resources Board) shall recommend the appropriate step rate within Director grade upon an employee's initial appointment or reassignment to a facility Director position. The VA Form 5-4065a, and 5-4065b, Request for Approval of Personnel Action Centralized to the Secretary, shall be used to document the recommendation. Recommendations shall be made through the Under Secretary for Health and the Deputy Assistant Secretary for Human Resources Management to the Secretary. All actions affecting Directors at VAM&ROC's will also require the concurrence of the Under Secretary for Benefits.

c. **Pay Determinations.** Any recommendation concerning the step rate of the above employees shall be made in accordance with paragraph 4 of this appendix.

4. PAY ADMINISTRATION

a. **Appointments and Reassignments.** Upon a change to or within Director or Executive grade, the VHA ERB or facility management, as appropriate, shall, except as outlined below, recommend a step rate within the grade based on an individual's qualifications and on facility complexity level and problem characteristics. Action by the Professional Standards Board is required only on the appointments of Chiefs of Staff as noted in paragraph 3a of this Appendix. The only minimum established for any complexity level or position shall be the minimum rate for the grade, but an exception to the suggested maximum for an individual may be recommended by the appropriate official.

(1) **Advancement to Executive or Director Grade.** Individuals advanced to Executive or Director grade shall be entitled to the lowest rate of pay within the higher grade which exceeds his or her existing rate by not less than two step increases of the lower grade.

(2) **Reassignment to a Facility With the Same or Higher Complexity Level.** The appropriate official may recommend a pay adjustment upon the reassignment of facility Directors or Chiefs of Staff, provided such adjustments are consistent with the criteria contained herein.

(3) **Change to a Lower Grade or to a Facility With a Lower Complexity Level.** The appropriate approving official shall recommend the following step rates for personnel changed to a lower grade under this appendix or to a facility with a lower complexity level, provided such a change is not for personal cause or at the employee's request.

(a) If the employee's existing scheduled rate falls between two steps of the grade of the new position, the employee shall receive the higher step.

(b) If the employee's existing scheduled rate of pay is the same as a step rate in the grade of the new position, the employee shall receive that step rate.

(c) If the employee's existing scheduled rate of pay exceeds the maximum step rate of the grade of the new position, the employee shall receive the maximum rate of the grade.

b. **Annual Step Rate Review.** See the guidelines for the annual step rate review to be published in VA Manual MP-5, part II, chapter 5.

c. **Applicability of Other Step Rate Increases.** The employees subject to the provisions of this appendix may not receive periodic step increases, rate adjustments, or quality increases under the provisions of MP-5, part II, chapters 3 and 5. Such employees are, however, eligible for a special basic pay adjustment under the provisions of paragraph 7, section A of this chapter.

5. CHANGES IN FACILITY COMPLEXITY LEVELS

a. **Periodic Review.** The facility complexity levels shall be reviewed periodically, and recommended modifications will be approved by the Under Secretary for Health.

b. **Change to Higher Facility Complexity Level.** If a facility is changed to a higher complexity level, the VHA ERB or the facility management, as appropriate, shall review the step rate of the Director or Chief of Staff, respectively, and may recommend an increase, provided the increase is consistent with the criteria contained herein.

c. **Change to a Lower Facility Complexity Level.** If a facility is changed to a lower complexity level, and the employee is in a step rate not supported by the lower complexity level, then the employee will retain that rate of pay as long as he or she remains in that position.

6. APPLICABILITY OF OTHER PROVISIONS OF THIS SECTION

Personnel covered by this appendix shall be subject to the provisions of paragraphs 3, 4e and 7 of section A of this chapter.

7. INDEX OF FIELD FACILITIES

An index of field facilities, by complexity level, is contained in the VHA Supplement to this part.

October 30, 1998

MP-5, Part II
Chapter 3
Appendix C

PAY POLICIES FOR FACILITY CHIEFS, NURSING SERVICE

*The provisions of this Appendix are superseded by those contained in
VA Directive and Handbook 5103.9, dated March 5, 1999.*

PAY POLICIES FOR CHIEFS OF PHARMACY SERVICE

1. Pay Setting. Individuals appointed to these positions shall receive the minimum rate of the grade, unless a higher rate of pay is approved in accordance with the criteria in paragraph 4i of this section and VA Directive 5103.7 for an initial appointment to VA, or as noted below.

a. Individuals Who Are Currently Service Chiefs

(1) Moving to Another Service Chief Position

(a) **Promotion.** Individuals promoted to a higher grade receive the lowest rate of basic pay in the higher grade which exceeds their existing rate of basic pay by not less than the amount of 2 step increases in the lower grade, unless they are approved to receive a higher rate of pay under application of the highest previous rate rule or are entitled to grade and/or pay retention provisions under VA Manual MP-5, part I, chapter 536.

(b) **Reassignment.** Individuals reassigned to a facility with the same complexity level shall have their pay set in accordance with the criteria in paragraph 4I of this section.

(c) **Change to Lower Grade.** When an individual voluntarily is reassigned or changed to a lower grade assignment, pay shall be set by use of the highest previous rate. However, if an individual is reassigned or changed to a lower grade as a result of a management action not for cause or poor performance, the individual shall be entitled to grade and/or pay retention in accordance with the provisions of VA Manual MP-5, part I, chapter 536.

(d) **Movement to A Position Not Covered by This Appendix.** When individuals move from Chiefs, Pharmacy Service, positions to other positions, their pay shall be set in accordance with the pay setting procedures applicable to the new position.

(e) **Change in Complexity Level.** *These provisions no longer apply.*

CHAPTER 3. PAY ADMINISTRATION**SECTION B. SPECIAL PAY FOR PHYSICIANS AND DENTISTS****1. SCOPE AND EXCLUSIONS**

a. **Scope.** This section contains the Secretary's special pay regulations for Veterans Health Administration (VHA) physicians and dentists in the Department of Veterans Affairs (VA) holding appointments under 38 U.S.C. 305, 7306, 7401(1), and 7405.

b. **Statutory Exclusions.** Title I of Public Law 102-40 specifically excludes, in whole or part, certain categories of physicians or dentists from the receipt of special pay.

(1) Total Exclusions. Include physicians and dentists who are:

(a) Employed on less than a quarter-time basis; that is, on a prescheduled tour of duty of less than 20 hours per pay period. However, special pay for physicians and dentists employed on less than a half-time basis must be approved, on a case-by-case basis, by the Director in accordance with paragraph 3B.03 of the VHA Supplement to this section. Half-time basis means a prescheduled tour of duty of 40 hours per pay period.

(b) Employed on an intermittent basis; that is, without a regularly scheduled tour of duty (e.g., consultants, attendings and fee basis physicians and dentists).

(c) Occupying internship or residency positions.

(d) Reemployed annuitants.

(e) Fulfilling service obligations under the VA Health Professionals Educational Assistance Program, except such individuals may be paid special pay for full-time status during the first 3 years of obligated service at the discretion of the Secretary and with the recommendation of the Under Secretary for Health. A calendar year of obligated service shall be calculated in the same manner as length of service in paragraph 5b of this section.

(f) Not covered by a special pay agreement.

(2) **Partial Exclusions.** A physician or dentist occupying an executive position in Central Office at the Deputy Service Director level or above is not eligible for the scarce specialty component of special pay.

c. **Administrative Exclusions.** The Secretary may administratively exclude, either totally or partially, categories of physicians and dentists for whom significant recruitment and retention problems do not exist. Before making a determination to exclude a category of positions, the Secretary shall receive the recommendation of the Under Secretary. The Secretary will make a redetermination on the categories excluded in July of each year.

(1) **Total Exclusions:**

- (a) Physicians and dentist whose appointments are limited to less than 1 year.
- (b) Distinguished Physicians.
- (c) Associate Investigators.
- (d) Physicians or dentist appointed under Title 38 who serve in a Federal State exchange program.
- (e) Physicians or dentists in fellowship or equivalent training programs.
- (f) Physicians or dentists fulfilling service obligations incurred in other Federal agencies; e.g., Public Health Service.
- (g) Physicians appointed as Veterans Outreach Team Leaders unless the Secretary determines based on the Under Secretary's recommendation that the services of a physician are required in the position.

(2) **Partial Exclusions:**

(a) Physician or dentist Directors of medical centers, domiciliaries, and outpatient clinics shall not be eligible for special pay unless the Secretary determines that payment of special pay is in the best interest of the facility. These determinations will be made on a case-by-case basis and require the recommendations of the Under Secretary.

(b) Special pay based on service in a scarce specialty is not authorized for **Career Development appointees in the Office of Research and Development (formerly Clinical Investigators, Research Associates, Medical Investigators, and Senior Medical Investigators)**. However, if they are regularly assigned patient care responsibilities 25 percent or more of their VA appointment, as certified in writing on VA Form 105379e, Special Pay Computation -- Physicians and Dentists, by the Chief of Staff, they are entitled to the other components of special pay for which they are eligible, including special pay for exceptional qualifications. (See par. 3B.04 of the VHA Supp. to this section.) Certification shall be made when the individual enters the special pay agreement and on the annual verification of that agreement under paragraph 15 of this section. Entitlement to geographic special pay for these individuals must be justified under the regulations and procedures specified in appendix D to this section.

~~—(c) Special pay based on service in a specific geographic location is not authorized for retired military personnel except as provided in paragraph 7 of appendix D to this section. (Repealed by sec.651 of P.L. 106-65, October 5, 1999)~~

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7433-7436.

2. REFERENCES

- a. 38 U.S.C. 501(a).
- b. 38 U.S.C. 7304.
- c. 38 U.S.C. 7421(a).
- d. 38 U.S.C. 7431-7439.
- e. Public Law 102-40 (38 U.S.C., as amended).
- f. Public Law 101-509 (Federal Employees Pay Comparability Act of 1990).
- g. 5 U.S.C. 5307.
- h. Executive Order 12736, December 12, 1990.
- i. Public Law 106-419, November 1, 2000.

3. POLICY

VA is committed to assuring that the levels of total pay (basic pay plus special pay) for VHA physicians and dentists are fixed at levels reasonably comparable (a) with the levels of total pay of physicians and dentists employed by or serving in other departments and agencies of the Federal Government and (b) with the income of non-Federal physicians and dentists performing like services. This policy is intended to make possible the recruitment and retention of the best qualified workforce capable of providing high quality care for eligible veterans.

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7439.

4. DEFINITIONS

a. **Specialty Trained.** Individuals certifying special pay computations (see par. 7 of this sec.) are to personally ensure that physicians or dentists who receive special pay for service in a scarce medical or dental specialty are board certified or specialty trained. This means the certifying official must determine that the physician or dentist has attained the necessary experience or training in the specialty or is board certified and as such has met the requirements of a specialty board that is a member of the American Board of Medical Specialties, or certification from a specialty board recognized by the Advisory Board of Osteopathic Specialists, or recognized by the American Dental Association (see par. 5h of this sec.), prior to entering into the special pay agreement. This determination should be made in conjunction with the clinical privileging process. Training needed to meet board requirements shall be reflected on either the individual's employment form, VA Form 10-2850, Application for Physicians, Dentists, Podiatrists, and Optometrists, or other appropriate documentation.

b. **Board Certification.** See paragraph 5h of this section.

c. **Pay Limitations**

(1) **Maximum Pay Limitation.** In no case may the total annual pay (basic pay plus special pay) of a VHA physician or dentist exceed the amount of annual pay (excluding expenses) received by the President of the United States as specified in 3 U.S.C. 102 (\$400,000, as of January 20, 2001).

(2) **Total Salary Pay Limitation**

(a) Special pay agreements entered into prior to October 1, 1994, that would result in a physician or dentist receiving total pay (basic pay plus special pay) in excess of ELI (\$151,800, as of January 4, 1998), or entered into on or after October 1, 1994, that would result in a physician or dentist receiving total pay (basic pay plus special pay plus any other payment in excess of \$190,000) require separate approval if the physician or dentist is to receive pay above that limitation, whichever is applicable. Facility Directors (for all field positions other than the Chief of Staff) or Network Directors (for Chiefs of Staff and network staff) are delegated authority to approve increases for individuals on agreements entered into prior to October 1, 1994, up to and including \$190,000. The Under Secretary for Health retains authority to approve increases in pay for any individual above \$90,000.

(b) The total salary limitation also applies to increases in pay that occur after a special pay agreement is approved. Any change in either basic pay (e.g., periodic step increase, promotion) which would cause total pay to exceed the EL-I or \$190,000 limitation, whichever is applicable, for the first time or special pay or another component of pay that would cause a physician or dentist to receive total pay in excess of the applicable limitation, or would increase the amount previously approved, must be separately approved. (NOTE: If the increase is the result of a change in assignment, a new special pay agreement, a new special pay computation form, and a covering memorandum explaining the reasons for the increase are required. If the increase does not involve a change in assignment, only a new special pay computation form and cover memorandum are required (see pars. 14 and 15 of this sec.))

(c) Special pay agreements or actions that would cause a physician or dentist to receive total pay in excess of the \$190,000 limitation shall be submitted to the Under Secretary for approval. (See par 14f of this section.)

d. **Additional Pay.** See paragraph 22 of this section.

e. **Special Pay.** Special pay is pay that physicians and dentists may receive for meeting the conditions under this section and the VHA Supplement thereto. Per annum special pay is based upon the individual components of special pay an eligible physician or dentist may receive.

f. **Special Pay as Basic Pay.** Special pay is basic pay for life insurance purposes for eligible fulltime and part-time physicians and dentists (see par. 23c of this sec.). Special pay is basic pay for civil service retirement purposes for fulltime and part-time physicians and dentists meeting applicable criteria (see subpars. 23a and b of this sec.). Special pay is not basic pay for purposes of severance pay, computing interim geographic adjustment pay (GAP), but is basic

pay for lump-sum leave payments, or work injury compensation claims for agreements retroactive to 7-14-91. However, special pay shall be included in any continuation of pay (COP) authorized under chapter 81 of Title 5 U.S.C. Special pay is subject to income tax withholding.

g. **Initial Special Pay Agreement.** This is the first special pay agreement approved for a physician or dentist under the provisions of 38 U.S.C. 7432.

h. **Subsequent Special Pay Agreement.** Any other special pay agreement approved for a physician or dentist under the provisions of 38 U.S.C. 7432 after the first agreement under 38 U.S.C. 7432.

i. **Misconduct.** The failure to comply with standards of employee conduct as contained in VA regulations, Federal laws, Governmentwide regulations, and Executive orders.

Authority: 38 U.S.C. 501(a), 7421(a), 7431; 5 U.S.C. 5307; E.O. 12736.

5. SPECIAL PAY COMPONENTS

Entitlement of physicians and dentists to special pay is based upon the definitions specified in paragraph 4 of this section, the appropriate portions of the VHA Supplement to this section, and the components that follow:

a. **Full-Time.** A physician serving in VHA in a fulltime capacity who executes a special pay agreement is entitled to \$9,000 per annum for this component of special pay. A fulltime dentist is entitled to \$9,000 for this component.

b. **Length of Service.** A physician or dentist becomes eligible for this component on the first day of the first pay period following completion of the required years of service. For example, an individual must have completed 2 full years of service with VHA to become eligible for the component of special pay based on length of service. The VHA service may include leave without pay and need not be continuous but must have been under 38 U.S.C. 305, 7306, 7401(1), or 7405(a)(1)(A), under a career residency, VA fellowship, the Career Development Program (see M-3, pt. II, ch. 8), or be otherwise creditable for periodic step increases or rate adjustment purposes as outlined in section A of this chapter. The Under Secretary is authorized to specify the amount of special pay for length of service within the statutory range authorized for this component (see app. C to this sec.).

c. **Scarce Medical or Dental Specialty.** This component of special pay is applicable to a medical or dental specialty for which VHA has experienced extraordinary difficulties in the recruitment or retention of qualified physicians or dentists nationwide, or based on the needs of a specific medical facility. The authorization of scarce specialty pay nationwide or based on the needs of a specific medical facility shall be granted under the regulations and procedures contained in appendix F to this section.

d. **Exceptional Qualifications within a Medical or Dental Specialty.** This component may be authorized when it is necessary to enhance the recruitment and retention of certain medical and dental specialists who possess special or distinguishing qualifications in a specialty

or within a category of positions. Procedures for requesting authorization to pay this component of special pay are contained in paragraph 3B.04 of the VHA Supplement to this section.

e. **Responsibility Level.** With the exception of Central Office positions, the amount of special pay authorized based on responsibility level generally will be based on the complexity level of the facility and assignment (see VHA Supp., MP5, pt. II, ch. 3, sec. A, app. B). However, responsibility pay may differ among positions at the same organizational level of a facility depending upon the needs of the facility and/or the qualifications of the individuals occupying the positions. The statutory range authorized for this component and the regulations and procedures to be followed when applying this component are contained in appendix E to this section.

f. **Service Chief or Comparable Positions.** See paragraph 6 of this section.

g. **Service Director or Deputy Service Director.** Eligibility for the Service Director or Deputy Service Director component of special pay includes Central Office physicians or dentists in Medical Director grade who occupy the position of Service Director or Deputy Service Director, or a position which encompasses a comparable level of professional responsibility as determined by the Under Secretary, and the concurrence of the Deputy Assistant Secretary for Human Resources Management.

h. **Specialty and Subspecialty Board Certification.** Eligibility for this component of special pay is restricted to physicians or dentists who are currently certified as having met the full requirements of the appropriate American specialty board. The list of approved specialties is contained in appendix A to the VHA Supplement to this section. Facility Directors are authorized to approve special pay for board certification in a medical or dental specialty or subspecialty based upon the policies and procedures delineated in paragraph 3B.05 of the VHA Supplement to this section.

i. **Specific Geographic Location.** This component of special pay is applicable when it has been determined there are extraordinary difficulties in the recruitment or retention of employees in specific physician or dentist categories based on geographic location of a specific medical facility. It shall be authorized under the regulations and procedures described in appendix D to this section.

j. **Post-Graduate Training for Dentists.** Dentists who present evidence of having completed a post-graduate year of hospital-based training in a program accredited by the ADA will receive \$2,000 per year for the first two years of VHA service after completing the training. The payment will be paid in the same manner as the other components of special pay: it is prorated for part-time service, it is subject to the statutory limit on part-time payment of 75 percent, and it is not payable to excluded categories of positions. Entitlement to this component will cease the beginning of the first pay period beginning on or after the first two full years of VHA service after completing an ADA-accredited hospital-based training program.

Authority: 38 U.S.C. 501(a), 7421(a), 7431.

6. POSITIONS COMPARABLE TO SERVICE CHIEF

a. The following positions are considered comparable to a Service Chief for special pay purposes when the employee's appointment to the position has been officially authorized by the Under Secretary, or designee.

(1) Associate Chief of Staff for Research, Associate Chief of Staff for Education, Associate Chief of Staff for Ambulatory Care, Associate Chief of Staff for Extended Care, and Associate Chief of Staff for Quality Assurance.

(2) Chief Medical Officer (appropriate only for an outpatient clinic facility).

(3) Assistant Chief of Staff.

(4) Director, Regional Medical Education Center.

(5) Director, Geriatric Research Education and Clinical Center.

(6) Director, Central Dental Laboratory.

(7) Director, Dental Research Center.

(8) Director, Dental Education Center.

(9) Director, Washington Continuing Education Center.

(10) Director, Northeast Program Evaluation Center.

(11) Executive Director, National Center for Posttraumatic Stress.

b. Other specific positions may be approved by the Under Secretary, with the concurrence of the Deputy Assistant Secretary for Human Resources Management. Requests shall include:

(1) A statement that the position is or will be centralized for appointment purposes under the provisions of VHA Supplement, MP-5, part I, chapter 250.

(2) A proposed organization chart which indicates that the position is in charge of a separate organizational entity reporting directly to the Chief of Staff for program direction and guidance.

(3) A proposed functional statement which indicates that the professional and administrative functions of the position are of a complexity and variety equivalent to that of a Service Chief.

(4) A statement concerning how these particular duties and responsibilities are being performed currently, where appropriate.

(5) Location and number of positions affected and estimated costs involved. For one of a-kind positions, the estimate should indicate whether responsibility pay will be outside of the range of responsibility pay applicable to the complexity level of the facility.

c. Positions approved by the Under Secretary under subparagraph b above are considered comparable to a Service Chief for special pay purposes when the employee's appointment to the position has been officially authorized by the Under Secretary or designee.

d. Facility Directors making recommendations concerning the addition of positions to those covered by this paragraph shall route their recommendation through the Network Director to (051). Such recommendations shall, to the extent possible, address the criteria in subparagraph b above and contain any additional information that supports the recommendation (e.g., documented recognition by the Clinical Executive Board of service level responsibilities).

Authority: 38 U.S.C. 501(a), 7421(a), 7433, 7435.

7. RESPONSIBILITIES AND APPROVING AUTHORITIES

a. **The Under Secretary for Health.** In addition to the authorities vested by law, the Under Secretary is authorized to approve the following actions. (NOTE: Any special pay determination or authorization delegated to the Under Secretary by the Secretary to approve, disapprove, change, or discontinue special pay will be considered the final Departmental decision.)

(1) Total pay in excess of \$190,000 per annum.

(2) Special pay (or designate other officials to approve) for any eligible physician or dentist in accordance with the provisions of this section and the VHA Supplement to this section.

(3) Certify special pay computations and approval special pay agreements for Central Office physicians and dentists.

(4) An exception to this section for any physician or dentist, in unusual circumstances provided such exception does not result in a physician or dentist receiving an amount of total pay (basic pay plus special pay) in excess of \$400,000; the exception is not contrary to the provisions and intent of 38 U.S.C. 7431-7438, and the exception is deemed equitable to the individual concerned.

(5) The waiver of special pay refund liability of not more than \$15,000 for any physician or dentist who fails to complete any of the years of service under the terms of an agreement due to circumstances beyond the individual's control has been delegated to Network Directors to decide on behalf of the Under Secretary.

b. **Network Directors.** In accordance with the provisions of this section and the VHA Supplement to this section, the Network Directors are authorized to approve:

(1) The special pay agreement and certify the special pay computation for the Clinical Services Manager or comparable position (formerly the Regional Chief of Staff), provided the

total amount of pay (basic pay plus special pay) does not exceed \$190,000. Agreements for ~~Regional Chiefs of Staff~~ Network staff that require the approval of the Under Secretary will still require the VISN's certification of the special pay computations.

(2) Special pay agreements and certify special pay computations for facility Chiefs of Staff, based on the recommendation of the facility Director, provided the total amount of pay (basic pay plus special pay) does not exceed \$190,000 per annum. Agreements for Chiefs of Staff that require the approval of the Under Secretary will still require the Network Director's certification of the special pay computations. Facility Personnel Officers will be the reviewing officials for the special pay computation sheet and will forward it through the facility Director to the Network Director for certification, along with the special pay agreement.

(3) The certifying official must ensure that physicians or dentists who are to receive special pay for a scarce medical or dental specialty are board certified or specialty trained (see par. 4a of this sec.).

(4) Decide requests for special pay refund liability waivers of not more than \$15,000 on behalf of the Under Secretary for Health.

c. **Facility Directors, or Chiefs of Staff**, if designated by the facility Director, are authorized to:

(1) Determine entitlement of physicians and dentists to special pay.

(2) Certify special pay computations for any eligible physician or dentist who is employed or will be employed at a facility, except that all pay matters concerning facility Chiefs of Staff (including certification of special pay computations) must be submitted to the appropriate Network Director for approval, with the recommendation of the facility Director. NOTE: The certifying official must ensure that physicians or dentists who are to receive special pay for service in a scarce medical or dental specialty are board certified or specialty trained (see par. 4a of this sec.).

(3) Approve special pay agreements for all facility physicians and dentists, except the Chief of Staff, provided the total amount of pay (basic pay plus special pay) does not exceed \$190,000 per annum.

(4) Approve scarce specialty pay of up to \$40,000 per annum for scarce specialties identified on a nationwide basis or facility specific.

(5) Approve geographic location pay of up to \$17,000 per annum.

(6) Approve changes in special pay or subsequent special pay agreements under 7432 that reflect an increase in special pay of greater than 50% or a decrease in special pay of greater than 25%.

(7) Authorize receipt of special pay for less than halftime, but at least quarter-time, service.

d. **Deputy Assistant Secretary for Human Resources Management.** The Deputy Assistant Secretary for Human Resources Management is responsible for:

(1) Advising the Under Secretary and other key officials on the regulations and procedures contained in this section and the policies and procedures contained in the VHA Supplement to this section.

(2) Assuring that all special pay agreements submitted for the approval of the Under Secretary are technically correct and are consistent with the regulations contained in this section and the policies contained in the VHA Supplement to this section.

e. **Human Resources Management Officers and the Director, Central Office Human Resources Service** are responsible for:

(1) Advising facility management on the regulations and procedures contained in this section and the policies and procedures contained in the VHA Supplement to this section.

(2) Assuring the accuracy of the VA Form 10-5379e, Special Pay Computation -- Physicians and Dentists, and serving as the reviewing official by signing the special pay computation form.

(3) Ensuring that eligible employees are made aware of their entitlements and responsibilities under the regulations contained in this section and the policies in the VHA Supplement to this section.

Authority: 38 U.S.C. 501(a), 7421(a), 7431.

8. LIMITATIONS ON DELEGATIONS OF APPROVAL AUTHORITIES

a. **Total Pay Limitation.** Notwithstanding any delegation of approval authority contained in this section or the VHA Supplement to this section for any individual component of special pay or total pay (basic pay plus special pay), when any special pay agreement will result in a physician or dentist receiving annual pay (basic pay plus special pay) in excess of \$190,000, the prior approval of the Under Secretary is required. Procedures for processing such requests are contained in subparagraph 14f of this section.

b. **Total Pay Not Exceeding the Total Pay Limitation.** Consistent with the individual approval authorities provided for in paragraph 7 of this section, limitations on the approval authority for special pay agreements when the total amount of compensation does not exceed \$190,000 are as follows:

- (1) Up to and including \$190,000 (excluding Chief of Staff)-- Facility director
- (2) Up to and including \$190,000 (for Chief of Staff and Network staff)-- Network Director
- (3) VACO physicians and dentists and all others above \$190,000 -- Under Secretary

c. **Special Pay Agreements Involving Multiple Levels of Approval.** In those cases where there are multiple or overlapping levels of approval, the amount of the total pay (basic pay plus special pay) to be received generally will determine the level of approval required. NOTE: In cases where the total amount of pay (basic pay plus special pay) is at a level that can be approved by the facility Director (i.e., at or below \$190,000), but a component of the special pay (e.g., exceptional qualifications) requires a higher level of approval, (i.e., the Under Secretary), the higher level approval must be obtained prior to finalizing the agreement at the facility level. This also applies to agreements approved at the Network Director level.

d. **The 50 Percent/25 Percent Special Pay Limitations**

(1) A special pay agreement that results in an increase in per annum special pay of more than 50 percent or a decrease in per annum special pay of more than 25 percent from the previous per annum special pay amount under a 4118 or 7432 agreement will require separate approval by the official authorized to approve the agreement.

~~(2) However, during the period of conversion from 4118 special pay agreements to the initial (first) special pay agreement under 7432, the authority to approve agreements that are subject to the 50 percent/25 percent limitations has been delegated in accordance with subparagraph 8b above, subject to the \$170,000 limitation. Procedures are contained in subparagraph 9a of this section.~~

~~—(3) If, during the conversion from an agreement under 38 U.S.C. 4118 to the initial agreement under 38 U.S.C. 7432, a physician or dentist's special pay decreases by more than 25 percent and the decrease is attributable solely to the loss of entitlement to a component of special pay, the facility Director retains approval authority.~~

~~(4)~~ After a physician or dentist has entered into his/her initial agreement under 7432 provisions, any subsequent special pay agreement, measured from the anniversary date of the agreement, that would result in special pay which exceeds the previous annual amount, requires separate approval by the official authorized to approve the agreement. Procedures for requesting such approvals are contained in subparagraph 14e of this section.

(3) An initial special pay agreement under 38 U.S.C. 7432 ~~that does not involve a conversion from an agreement under 4118 provisions~~ is not subject to the 50 percent/25 percent limitations.

(4) The 50 percent/25 percent limitations do not apply to agreements signed by VA Central Office physicians or dentists in executive positions.

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7432.

9. PROCEDURES FOR PROCESSING SPECIAL PAY AGREEMENTS WHICH EXCEED 50 PERCENT/25 PERCENT LIMITATIONS**a. ~~Conversion to Initial 7432 Agreements~~**

~~—(1) Conversion to initial 7432 agreements that exceed the 50 percent/25 percent limitations may be approved by the designated official in paragraph 8b of this section. The designated official will review/consider the following:~~

~~—(a) The proposed special pay agreement.~~

~~—(b) A copy of the computation sheet that reflects special pay under the previous special pay agreement.~~

~~—(c) The computation sheet that reflects the proposed special pay under the proposed special pay agreement.~~

~~—(d) An assessment of any retention problem that would result from disapproval of the proposed agreement.~~

~~—(e) Any other pertinent information that would justify a favorable determination on the request.~~

~~—(2) Agreements that require action by the Network Director will contain the information in subparagraph 9a(1) above.~~

~~—(3) Agreements affecting field facility physicians and dentists that require action by the Under Secretary will contain the information in subparagraph 9a(1) above.~~

~~—(4) Requests affecting VA Central Office physicians and dentists in nonexecutive positions will be submitted to the Under Secretary and require the concurrence of the Deputy Assistant Secretary for Human Resources Management (05). Submit the same information as required in subparagraph 9a(1) above to support the requests.~~

~~—b. Subsequent 7432 Agreements.~~ After entry into the initial 7432 agreement, any subsequent special pay agreement that would result in special pay which exceeds the previous annual special pay amount by more than 50 percent or is less than the previous annual special pay amount by more than 25 percent must be separately approved by the appropriate official (see subpar. 14e of this sec.).

b. Notwithstanding subparagraphs ~~a and b above~~, any proposed special pay agreement that would result in total annual pay (basic pay plus special pay) in excess of \$90,000 must be submitted to the Under Secretary for approval (see subpar. 14f of this sec.).

Authority: 38 U.S.C. **501(a), 7421(a), 7431, 7432.**

a. The terms and conditions of an existing special pay agreement may not be changed during its term unless the policy in effect at the time the agreement was entered into provided for such changes. This means changes to this manual only affect special pay agreements entered into on or after the effective date of the change. Generally this includes amounts of special pay; however, amounts of special pay may be changed during the term of an agreement as a result of:

(1) Authorization of special pay for service in a specific geographic location under the conditions provided in appendix D to this section.

(2) A change in the amount of special pay authorized for responsibility level based on an enhanced level of experience.

(3) Changes in amounts of basic pay (e.g., periodic step increases) or special pay (e.g., board certification or certain increases in scarce specialty pay) that do not involve a change in position.

b. Physicians or dentists under existing special pay agreements on the effective date of a change to this manual, who wish to become subject to the provisions of that change, must sign a new special pay agreement to do so (see par. 13 of this sec.).

c. In view of the above, officials responsible for administering the special pay program should retain superseded versions of this section.

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7432.

11. GUARANTEED MINIMUM SPECIAL PAY COINCIDENT WITH CONVERSION TO SPECIAL PAY PROVISIONS OF PUBLIC LAW 102-40. (Obsolete)

~~**a. Physicians and Dentists with Special Pay Agreements Under 38 U.S.C. 4118 (4118 Agreements) Expiring July 13, 1991**~~

~~(1) Physicians and dentists employed in VHA on July 13, 1991, who are receiving special pay for no other special pay factors other than primary, tenure, full time status (if applicable) or specialty or board certification under a 4118 agreement expiring effective July 13, 1991, are guaranteed no less than the equivalent amount of special pay to which they were entitled on July 13, 1991, if that amount exceeds the special pay they would receive under 38 U.S.C. 7432 (7432 agreement). The physician or dentist must be otherwise eligible and enter into a 7432 agreement in order to be entitled to guaranteed minimum special pay.~~

~~(2) Guaranteed minimum special pay will be maintained until such time as the amount of special pay to which entitled under a 7432 agreement equals or exceeds entitlement under the 4118 agreement. For example, a physician with a 4118 agreement expiring July 13, 1991, is receiving special pay of \$14,000 (\$7,000 for primary, \$1,000 for tenure, and \$6,000 for full time). Under a new 7432 agreement, the physicians would receive \$9,000 for fulltime. The physician will continue to receive the \$14,000 as guaranteed minimum special pay until such time as special pay under the 7432 agreement equals or exceeds the \$14,000. Guaranteed minimum special pay will be maintained through subsequent agreements provided there is no break in service with VHA (i.e., 1 workday or more), and the physician or dentist enters into a~~

subsequent agreement at the appropriate time; i.e., there is no intentional break between agreements.

~~—(3) Physicians and dentists with 4118 agreements expiring on July 13, 1991, who are receiving special pay for factors other than primary, tenure, full time status if applicable or specialty or board certification, are ineligible for a guaranteed minimum amount of special pay under a 7432 agreement. This includes physicians and dentists who entered special pay agreements under 38 U.S.C. 4118 between May 7, 1991, and July 13, 1991, since these agreements also expire on July 13, 1991.~~

~~—b. **Physicians and Dentists with Special Pay Agreements Under 38 U.S.C. 4118 (4118 Agreements) Expiring After July 14, 1991**~~

~~—(1) Physicians and dentists who were receiving special pay for special pay factors other than primary, tenure, and full time status, if applicable, or specialty or board certification under a 4118 agreement (expiring after July 14, 1991) may elect, at their option to continue on the 4118 agreement until it expires. They will be entitled to guaranteed minimum special pay at the time their 4118 agreement expires if they will receive less special pay under their initial 7432 agreement than under the 4118 agreement.~~

~~—(2) Physicians and dentists in this situation may also elect to convert to a 7432 agreement before their 4118 agreement expires. If they do so, their special pay is treated in the same manner as in paragraph a above. However, at such time the physician or dentist converts to a 7432 agreement, a service obligation is incurred.~~

~~—(3) Both full and part time physicians and dentists must be otherwise eligible and enter into a 7432 agreement in order to be entitled to guaranteed minimum special pay.~~

~~—(4) Physicians and dentists with 4118 agreements (expiring after July 14, 1991) who are receiving special pay for factors other than primary, tenure, full time status, if applicable, or specialty or board certification, may elect to remain on their existing 4118 special pay agreements until the agreements expire. For example, the scarce specialty of Pathology applicable to physicians under 4118 agreements has been removed from the list of scarce specialties applicable to 7432 agreements. The scarce specialties of Periodontics, Prosthodontics, and all dentists at the Central Dental Laboratories and the Central Dental Laboratories and the Central Dental Research Laboratory applicable to dentists under 4118 agreements have been removed from the list of scarce specialties applicable to 7432 agreements. Physicians and dentists in those scarce specialties may, if it is to their advantage, elect to remain on their existing 4118 agreements. When the 4118 agreement expires, they will only be entitled to special pay under the new 7432 procedures.~~

~~—c. **Physicians and Dentists Who Entered Special Pay Agreements Between May 7, 1991, and July 13, 1991.** Physicians and dentists who are receiving scarce specialty pay for a specialty removed from the list of 4118 scarce specialties must enter a new 7432 agreement on or after July 14, 1991, to be eligible for special pay. Their 4118 agreements expire effective July 13, 1991, and they are ineligible for guaranteed minimum special pay.~~

~~**Authority: 38 U.S.C. 501(a), 7431, 7432, 7437e, P.L. 102-405.**~~

12. SPECIAL PAY CONTINUATION AFTER CONVERSION TO SPECIAL PAY PROVISIONS OF PUBLIC LAW 102-40.

a. Physicians or dentists in a category administratively excluded from special pay eligibility under paragraph 1c of this section will continue to receive special pay until their existing special pay agreements expire. Once the existing agreement expires they are no longer eligible for special pay.

b. ~~Except as provided in paragraph 11 of this section,~~ Physicians or dentists who are receiving special pay will not suffer a decrease in special pay because of a reduction in the amount authorized for a component of special pay during the term of that agreement. For example, if a decision is made to eliminate a specialty from the list of nationwide scarce specialties, affected physicians or dentists would continue to receive that scarce specialty pay for the life of their current special pay agreements. Upon signature of a subsequent special pay agreement, they would no longer be eligible for the scarce specialty pay.

Authority: 38 U.S.C. **501(a), 7421(a), 7431, 7433-7436.**

13. AGREEMENTS**a. General Information**

(1) For the purposes of this section, “initial” special pay agreement refers to the first special pay agreement signed by a physician or dentist under the provisions of 38 U.S.C. 7432. All other agreements are considered “subsequent” special pay agreements.

(2) Personnel actions that involve an upward change in assignment (e.g., assignment from a staff physician to a service chief, or promotion from service chief to chief of staff) will require a new agreement.

(3) Personnel actions that change the amount of special pay for which the individual qualifies (e.g., length of service pay) or the amount of basic pay (e.g., periodic step increase), but do not involve a change in assignment, do not require a new agreement. However, the amount of pay received as a result of the increase is subject to the provisions of the **\$90,000** limitation (see subpar. 4c(3) of this sec.).

(4) If a physician or dentist moves into an excluded category, entitlement to receive special pay will terminate, and the individual will incur a special pay refund liability if the movement into the excluded category was within the individual’s control. If the individual subsequently returns to a category not excluded from special pay eligibility, the individual must enter into a new agreement to be entitled to receive special pay.

(5) The entitlement to scarce specialty pay for a physician or dentist may not change during the term of an existing agreement so long as the physician or dentist is in the scarce specialty position.

(6) Physicians and dentists on time-limited appointments of 1 year or more may sign special pay agreements which extend beyond the expiration of their appointment.

(7) Physicians or dentists who are appointed under 38 U.S.C. 7306 (formerly 4103) must sign new special pay agreements not to exceed 4 years upon initial appointment to a 7306 position.

b. Under Secretary for Health

(1) Any increases in special pay for the Under Secretary will require that a new agreement be entered into by the Under Secretary.

(2) Any increase in special pay for the Under Secretary, other than that which has been statutorily provided (i.e., special pay for responsibility level) is subject to approval by the Secretary.

c. During Transitional Period. (Obsolete) ~~Public Law 102-40 sets forth procedures for treatment of existing and new special pay agreements (app. A to this sec.) during the period of transition (i.e., from the date of enactment, May 7, 1991) to the effective date of the revised special pay provisions (July 14, 1991) as follows:~~

~~—(1) Physicians and dentists covered by agreements authorized under 38 U.S.C. 4118 may enter a subsequent agreement under 4118 provisions; however, the subsequent agreement may not extend beyond July 13, 1991.~~

~~—(2) Covered physicians and dentists who begin employment during this transitional period may enter into special pay agreements under 4118 special pay provisions; however, the agreement may not extend beyond July 13, 1991.~~

~~—(3) Physicians and dentists covered by a 4118 special pay agreement which expires after the effective date of the new special pay provisions (July 14, 1991), as well as those covered under subparagraphs (1) and (2) above, can enter into new special pay agreements under the provisions of Public Law 102-40.~~

~~—(4) Physicians and dentists who are covered by 4118 agreement that were effective before May 7, 1991, and expire after July 14, 1991, (the effective date of the new special pay provisions) can remain on existing 4118 agreements in accordance with the terms of those agreements until the agreements expire.~~

~~—(5) Covered physicians and dentists who enter into a 7432 special pay agreement on or after July 14, 1991, may under certain circumstances be eligible for guaranteed minimum special pay if the amount of special pay they received on July 13, 1991, exceeds their entitlement under a new 7432 agreement (see subpar. 11b of this sec.).~~

~~—(6) Special pay under a section 7432 agreement will be authorized upon acceptance and approval of an agreement under the provisions of this section and the VHA Supplement to this section.~~

d. **Advice About Agreements for Covered Physicians and Dentists.** Individuals signing special pay agreements will be advised of the following:

(1) They may, at their option, request a total of 1, 2, 3, or 4 years of service under an agreement. Agreements may not be signed for fractions of years and they may not extend beyond a maximum of 4 years.

(2) They may, at their option, enter into a subsequent special pay agreement which extends 1, 2, 3, or 4 years provided satisfactory arrangements have been made to liquidate any applicable refund liability resulting from service under a previously terminated special pay agreement.

(3) Entry into a subsequent special pay agreement under this subparagraph automatically cancels the existing special pay agreement.

(4) A repayment obligation exists if a physician or dentist voluntarily or because of misconduct fails to complete any of the years of service (measured from the anniversary date of the agreement) regardless of the type of agreement (initial or subsequent) or length of service selected (see subpar. (6) below).

(5) A waiver of special pay refund liability may be authorized under the policies and procedures provided in paragraph 19 of this section.

(6) There is no relationship between an eligible individual's term of employment and the length of the special pay agreement, except that physicians and dentists whose appointments are limited to less than 1 year are not eligible to enter into a special pay agreement. In addition, those signing a longer agreement have a reduced repayment liability since the amount of the refund liability decreases each year by a specified percentage over the term of the agreement (see par. 19 of this sec.).

(7) Physicians or dentists may terminate existing special pay agreements; extend existing special pay agreements upon approval of the Under Secretary (see par. 20 of this sec.); or enter into subsequent special pay agreements.

(8) A special pay agreement is not an employment contract and does not constitute a VA obligation to continue the service of a person for the entire period of an agreement, i.e., the usual personnel policies continue to apply.

(9) Physicians or dentists receiving special pay based on attainment of board certification are required to keep VA apprised of anything that may affect their eligibility for this component of special pay (see par. 3B.05 of the VHA Supp. to this sec.). This includes advising VA if their board certification is probationary or time-limited, has expired, or is revoked.

(10) Physicians or dentists on Leave Without Pay (LWOP) retain their employee status. However, time spent in LWOP does not diminish the individual's service obligation under a special pay agreement. Physicians and dentists who enter special pay agreements and subsequently go into a LWOP status merely postpone their service obligation to VHA under the terms of their agreement during the period of LWOP.

(11) Special pay is included in basic pay for lump sum annual leave payments, and life insurance and retirement purposes under the provisions of paragraph 23 of this section; however, special pay is not basic pay for severance pay or compensation of work related injuries (other than continuation of pay).

(12) Physicians or dentists in receipt of special pay for which they are not eligible shall be liable for such pay and may be subject to appropriate administrative or judicial action.

e. **Local Procedures.** The agreement will be prepared in an original and 2 copies by the Personnel Officer or the **Director, Central Office Human Resources Service**, as appropriate. Each copy will be signed by the individual employee prior to review and certification of the special pay computation by the appropriate official, and approval of the agreement by the appropriate official (see pars. 7, 8, 9 and 14 of this sec.). Upon approval by the appropriate official, the original of the agreement will be filed on the permanent side of the **Merged Records Personnel Folder (MRPF)**. The second copy will be given to the individual; a copy of this section and the VHA Supplement to this section will be made available for the individual's review. The third copy of the special pay agreement will be forwarded to the Chief, Fiscal Service or Director, Central Office Finance Service, as appropriate, for inclusion in the payroll folder. The VA Form 10-5379e, Special Pay Computation -- Physicians and Dentists, will be filed on the temporary side of the **MRPF**.

Authority: 38 U.S.C. **501(a), 7421(a), 7431-7438.**

14. EFFECTIVE DATES AND APPROVAL PROCESS OF SPECIAL PAY AGREEMENTS

a. Special pay agreements that are executed on appointment or reappointment are effective on the date of appointment or reappointment provided they are signed by the approving official on the first duty day on or after the appointment or reappointment.

b. Agreements for current employees that are within the facility Director's authority to approve are effective the first day of the first pay period on or after the approval by the facility Director unless the physician or dentist requests a prospective effective date or the official responsible for determining special pay eligibility makes a written determination that the individual was unable to enter into an agreement for reasons beyond the individual's control.

c. Special pay agreements that require approval of a Network Director or the Under Secretary will be effective on the first day of the first pay period beginning on or after the date of approval by the appropriate official, except as provided in subparagraph 14e(2) (a) of this section.

d. To facilitate the approval process above the facility level:

(1) For agreements that require the approval of the Network Director, facility Directors shall submit the proposed agreement, which has been signed and dated by the physician or dentist, along with the VA Form 10-5379e, Special Pay Computation -- Physicians and Dentists, to the Network Director within 5 workdays after signature by the physician or dentist. Included

in this package will be all documentation necessary to support the special pay recommendation; e.g., the justification for the proposed amount of scarce specialty pay (see app. F to this sec.).

(2) The Network Director will review the computation form and supporting documentation to ensure compliance with the limits and ranges established in the policy. If a discrepancy is noted or the amounts of pay proposed are not sufficiently justified, the Network Director will return the case to the facility Director for revision or reconsideration.

(3) The Network Director will complete his/her review within 5 workdays after receipt and, if approved, the Network Director will sign the computation form as the certifying official (except as provided in par. 7b(3) of this sec.) and the agreement form as the approving official. The effective date shall be established in accordance with subparagraph 14c above.

(4) For agreements requiring the approval of the Under Secretary, the proposed agreement and the proposed Special Pay Computation -- Physicians and Dentists, VA Form 10-5379e, must be submitted through appropriate channels (within 5 workdays after signature by the physician or dentist) to (051). During the review process, if a discrepancy is noted or the amounts proposed are not sufficiently justified, the entire case will be returned through channels to the facility Director for reconsideration.

e. ~~After the period of conversion~~, Subsequent 7432 agreements, other than agreements with VA Central Office physicians and dentists, that would result in special pay which exceeds the previous annual amount (measured from the anniversary date of the agreement) by more than 50 percent or is more than 25 percent lower than the previous annual amount must be separately approved by the appropriate official.

(1) Normally, such agreements will be submitted a minimum of 60 days prior to the proposed effective date of the new agreement and will contain the same information as is described in subparagraph 9a(1) of this section.

(a) Requests affecting field facility physicians and dentists will contain the same information in subparagraph 9a(1) of this section.

(b) Requests affecting VA Central Office physicians and dentists will be submitted to the Under Secretary through the **Director, Central Office Human Resources Service (035)**, and require the concurrence of the Deputy Assistant Secretary for Human Resources Management. The requests shall be supported with the same information required in subparagraph 9a(1) of this section.

(2) The appropriate official has 60 days from the date the physician or dentist signed the proposed agreement to approve, disapprove, or take no action on the agreement.

(a) If the appropriate official takes no action with 60 days after the physician or dentist signs the proposed agreement, the agreement will become effective on the first day of the first pay period following the end of the 60-day period after the physician or dentist signs the agreement.

(b) Agreements that are approved during the 60-day period will become effective on the first day of the first pay period beginning on or after the date of the approval.

(3) Except for any action which would cause total pay to exceed \$190,000 and require the Under Secretary's approval, this requirement for separate approval of a greater than 50 percent increase or 25 percent decrease in special pay does not apply to the following:

(a) Increases or decreases in scheduled hours, e.g., conversion from part-time to full-time;
or

(b) Any change in a nondiscretionary special pay component, i.e., fulltime, tenure, and board certification.

f. Notwithstanding any other provisions of this section, any proposed agreement (other than an agreement with the Under Secretary) that would result in total pay in excess of \$190,000 shall require the Under Secretary's approval. A proposed agreement which exceeds the \$190,000 limitation will be disapproved if the Under Secretary determines that the amounts of special pay proposed to be paid are not necessary to recruit or retain the physician or dentist.

(1) Proposed agreements affecting field facility physicians or dentists that exceed the \$190,000 limitation shall be submitted through appropriate channels within 5 work days after signature by the physician or dentist through (051) to the Under Secretary for approval and shall contain the following information:

(a) The proposed special pay agreement that has been signed and dated by the physician or dentist.

(b) The proposed VA Form 10-5379e, Special Pay Computation -- Physicians and Dentists, that has been reviewed by the facility Personnel Officer and certified by the appropriate official (see par. 7c(2) of this sec.).

(c) Complete justification for the proposed amounts of special pay, including any pertinent information on the recruitment and retention history of the position occupied or to be occupied by the physician or dentist, such as that contained in paragraph 6 of appendix F to this section.

(2) Proposed agreements affecting VA Central Office physicians or dentists shall be submitted within 5 workdays after signature by the physician or dentist through the Director, Central Office Human Resources Service (035) to the Under Secretary. (035) will review the proposed documents and make a recommendation to the Under Secretary. The recommendation shall be based on the information in subparagraph 14f(1) above.

(3) Within 60 days of the date the physician or dentist signs the proposed agreement, the Under Secretary will approve, disapprove, or take no action on the agreement.

(a) If the Under Secretary takes no action within the 60 days, the agreement will become effective on the 61st day after the physician or dentist signs the agreement.

(b) If the Under Secretary approves an agreement during the 60-day period, the agreement is effective on the date of approval.

(c) If an agreement is disapproved during the 60-day period, the facility Director, Network Director, or **Director, Central Office Human Resources Service**, as appropriate, will be advised of the disapproval and of the Under Secretary's recommendation as to the amount of total pay (basic pay plus special pay) that would be considered appropriate to facilitate an approval of the agreement. The facility Director, Network Director, or Under Secretary, as appropriate, after consultation with the affected physician or dentist, will take whatever action is deemed necessary, including submitting a new proposed special pay agreement. On such a resubmission if the agreement requires the Under Secretary's approval, it will become effective on the date of approval.

(d) The affected physician or dentist is not entitled to special pay under a 7432 agreement until the proposed agreement is approved by the appropriate authorizing official (see par. 7 of this sec.).

Authority: 38 U.S.C. **501(a)**, 7304, **7421**, 7431, 7432.

15. COMPUTATION AND ANNUAL VERIFICATION OF SPECIAL PAY AMOUNT

a. **Initial Computation.** Whenever a special pay agreement is executed, special pay is to be processed in accordance with PAID procedures. When an automated computation form (Special Pay Computation -- Physicians and Dentists, VA Form 10-5379e) is produced by the Austin Automation Center (AAC), that form shall be reviewed by the Human Resources Management Officer and certified by the individual authorized to certify special pay computation under paragraph 7 of this section. If an automated computation form is not produced by the AAC, the Human Resources Management Office will manually complete VA Form 10-5379e and follow the review and certification procedures described in subparagraphs b and c below. Computation forms will be retained as temporary documents on the left side of the **MRPF**.

b. **Annual Verification of Computation.** The computation of special pay is to be verified on all anniversaries of the effective date of a special pay agreement other than the final anniversary. In other words, special pay computations of 4-year agreements are to be verified on the first, second and third anniversaries; 3-year agreements on the first and second anniversaries; and 2-year agreements on the first anniversary. Approximately 90 days in advance of the anniversary date, the PAID system will generate and forward to the personnel office a computation form (VA Form 10-5379e labeled "Annual Verification"). These forms are to be reviewed and certified in the same manner as described in subparagraph a and retained as temporary documents on the left side of the **MRPF**.

c. Changes in the Amount of Special Pay

(1) A new special pay agreement is required whenever the amount of special pay changes because of a change in assignment, such as assignment from a staff physician or dentist to a service chief or promotion from service chief to chief of staff.

(2) A new special pay agreement is not required when the amount of special pay changes because of actions that do not involve a change in assignment, such as receipt of board certification, approval of scarce specialty pay, or change in length of service.

(3) Whenever the amount of special pay changes because of an action described in subparagraph (2) above, the PAID system will generate a computation form, VA Form 105379e, to reflect the special pay change. Computation forms generated for this purpose are to be reviewed by the Human Resources Management Officer, or designee, and retained as a temporary document on the left side of the **MRPF**. They do not have to be certified by the official authorized to certify special pay computation (see par. 7 of this sec.); unless the amount of total pay resulting from the change would exceed the \$**190,000** limitation (see subpar. 4c(3) of this sec.).

d. If the employee is not under automated calculation procedures or the automated special pay computation provided under subparagraphs a, b or c is incorrect, Human Resources Management Officers should manually prepare a VA Form 105379e and follow the review and certification procedures above. If the automated special pay computation provided under subparagraphs a, b or c is incorrect, or if the special pay amount being received by the physician or dentist is incorrect, appropriate corrective action must be taken. (See applicable PAID procedures and par. 21 of this sec.).

Authority: 38 U.S.C. **501(a), 7421(a), 7431-7437.**

16. PAYMENT OF SPECIAL PAY

a. Special pay will be paid on a pay period basis by application of formulas similar to those used for determining basic salary. For fulltime physicians and dentists, the per annum special pay will be divided by 364 to determine the daily rate and the daily amount will be multiplied by 14 to obtain a biweekly pay period rate. For part-time physicians or dentists, the per annum special pay will be divided by 2,080 to obtain an hourly rate and the hourly rate will be multiplied by the number of hours in a pay status to obtain a biweekly rate. A fraction resulting from any computation will be adjusted to the nearest cent, counting one-half cent and over as a whole cent. Payment of special pay will not be authorized for periods of leave without pay or absence without leave.

b. Part-time physicians or dentists working 80 or more hours in a biweekly pay period may not have their special pay computed as if they are fulltime employees. The annual rate of special pay of a part-time physician or dentist shall be based on the special pay factors (other than full-time) and is to be prorated based on the proportion of time the part-time employment bears to full-time employment, except that such ratio can not exceed 75 percent on an annual basis. Entitlement to special pay as a fulltime employee exists only if employees are converted to full-time status and the conversion is documented on a SF 50-B, Notification of Personnel Action.

Authority: 38 U.S.C. **501(a), 7421(a), 7431-7437.**

17. TEMPORARY PROMOTIONS AND REASSIGNMENTS

The component of special pay applicable to eligible individuals assigned to positions on the basis of professional responsibilities does not include those physicians or dentists serving on a detail or in an acting capacity. However, individuals given a temporary promotion to Chief of Staff under provisions of VHA Supplement, MP-5, part II, chapter 5, paragraph 5.15, or a temporary reassignment to a Service Chief or comparable position under provisions of VHA Supplement, MP-5, part II, chapter 11, section B, paragraph 11B.09, will be eligible for the applicable component of special pay.

Authority: 38 U.S.C. 501(a), 7421(a), 7431.

18. DUAL APPOINTMENTS

a. Individuals with part-time appointments at more than one facility may receive special pay based on their total employment provided it is half time or more, except that the appropriate official may authorize the payment of special pay to a physician or dentist who is employed on less than a half-time basis, but at least quarter time (two-eighths), when it is determined to be the most cost-effective way available to provide needed medical or dental services at a VA medical facility (par. 3B.03 in the VHA Supp. to this sec.). However, this total may not include service in an excluded category or position.

b. A determination of the facility that is primarily responsible for carrying out the provisions of this section shall be made in the following order:

- (1) The facility employing the physician or dentist for the greatest number of hours.
- (2) The first employer.
- (3) The facility designated by mutual consent.

c. Notwithstanding subparagraph b, each facility shall pay special pay to physicians or dentists covered by this paragraph based on the percentage of total employment at their facility.

Authority: 38 U.S.C. 501(a), 7421(a), 7431.

19. WAIVERS OF SPECIAL PAY REFUND LIABILITY

a. In the event a physician or dentist voluntarily or because of misconduct fails to complete any of the years of service under an agreement, the physician or dentist shall be required to refund the specified percentage of the special pay received for that year unless the Under Secretary (see par. c), under authority delegated by the Secretary, determines that such failure is necessitated by circumstances beyond the control of the physician or dentist. (Examples of circumstances deemed beyond the control of the individual include ~~semi~~permanent or permanent serious illness.)

b. The percentage of repayment liability the individual would incur is as follows:

(1) 100 percent of the special pay received in the first year of the agreement if the failure occurs during the first year.

(2) 75 percent of the amount received in the second year of the agreement if the failure occurs during that year.

(3) 50 percent of the special pay received in the third year of the agreement for failure during that year.

(4) 25 percent of the special pay received during the fourth year of the agreement for failure during that year.

c. Local officials are not authorized to waive any special pay refund liabilities; authority to approve waivers has only been delegated by the Secretary to the Under Secretary. **Network Directors are delegated authority to approve, on behalf of the Under Secretary, waivers of refund liabilities of not more than \$15,000. Liabilities above \$15,000 must be submitted to the Under Secretary for approval.**

d. Human Resources Management Offices and **the Director, Central Office Human Resources Service**, are responsible for ensuring that employees fully understand the nature of their obligation and the procedures for requesting a waiver of special pay refund liability.

e. A request to waive a special pay refund liability should contain any written statement the individual wishes to make concerning the amount or validity of the debt, or the individual's justification for breaching the special pay agreement. The request should be filed with the appropriate official within 3 business days after receiving the SF 1114, Bill for Collection.

f. When a facility Director receives a request to waive a refund liability, the waiver request, **and any supporting documentation, and the individual's Official Personnel Folder**, will be forwarded to the **appropriate approving official Under Secretary through (051)**, along with the Director's recommendation concerning appropriate action. Requests from VA Central Office employees will be forwarded through channels to the Under Secretary for decision.

g. **The approving official Under Secretary** will make a written determination with respect to the special pay refund liability, and make a copy of that determination will be furnished to the individual. **When Network Directors disapprove requests for waivers, individuals may request reconsideration by the Under Secretary. Requests for reconsideration should be submitted as described in par. f.**

h. The Under Secretary's decision is final; there is no further review within the Veterans Health Administration or the Department of Veterans Affairs.

i. Special Pay and Retirement Records. Special pay under an agreement for which there is a refund liability is not considered basic pay for retirement purposes unless any applicable refund liability is waived **by the Under Secretary**. If the refund liability is waived, retirement deductions taken from special pay (received under the breached agreement) will be included in an employee's retirement account if the employee retires or elects a deferred annuity. The

deductions will be refunded if a waiver has been approved, and the employee has elected to withdraw the employee's retirement contributions.

j. Whenever a special pay agreement is breached, the SF 2806, Individual Retirement Record (CSRS), or the SF 3100, Individual Retirement Record (FERS), is to be treated as follows:

(1) If the refund liability is waived before the SF 2806/SF 3100 is forwarded to the OPM (Office of Personnel Management), no action is required.

(2) If a refund liability has not been waived and the SF 2806/SF 3100 is being forwarded to OPM, the Fiscal Officer, or designee, shall delete all entries on the SF 2806/SF 3100 concerning special pay received under the breached agreement.

(3) If the ~~approving official~~ ~~Under Secretary~~ waives the refund liability and the SF 2806/SF 3100 has been forwarded to OPM, the Fiscal Officer, or designee, shall restore the deletions made under subpar. (2), by preparing and forwarding to OPM, a SF-2806-1, Notice of Correction of Individual Retirement Record, or SF 3101, Notice of Correction of Individual Retirement Record (FERS) (OPM Operating Manual. 831-1, subch. S22-6).

Authority: 38 U.S.C. 501(a), 7421(a), 7431.

20. TERMINATION AND EXTENSION OF EXISTING SPECIAL PAY AGREEMENT

a. Physicians and dentists may terminate special pay agreement at their request in those cases where an agreement would be breached on a known future date. Early termination of the agreement will reduce the amount of special pay subject to refund. Written requests to terminate such agreements are to be submitted to the Human Resources Management Office and shall be effected on the first day of the first pay period following receipt. When a request is received, the Human Resources Management Officer shall furnish a copy to the payroll activity and file the request in the individual's MRPF.

b. The length of special pay agreements may in extraordinary circumstances, be extended up to a maximum of 4 years, at the request of the employee and upon approval of the Under Secretary. Documented requests are to be submitted to the facility Director who will forward the request, along with the Director's recommendation to VA Central Office (051). Requests from VA Central Office employees are to be submitted for consideration through (035).

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7432.

21. BACKPAY AND WAIVERS OF SALARY OVERPAYMENTS

a. **Backpay.** Special pay is consideration pay for the purposes of the Backpay Act (5 U.S.C. 5596). Any unjustified or unwarranted personnel actions are to be corrected in accordance with 5 CFR part 550, subpart H.

b. **Waivers of Salary Overpayments.** Section 5584 of Title 5, United States Code, authorizes waiver under certain conditions of claims of the Government arising out of erroneous

payment of pay or allowances made to employees. This includes erroneous payments of special pay, but not waivers of special pay refund liabilities under paragraph 19 above. Further guidance concerning waivers of erroneous salary overpayments is contained in VA Manual MP4, part I, chapter 5, paragraph 5H.02 and chapter 8, paragraph 8A.17, subchapter III of chapter 5, title I, entitled "Compensation," General Accounting Office Civilian Personnel Law Manual.

Authority: 5 U.S.C. 5584, 5596.

22. ADDITIONAL PAY AUTHORITIES

a. The Secretary, or designee, may authorize the payment of advance basicsalary payments, recruitment or relocation bonuses, and retention allowances to otherwise eligible physicians and dentists and interview expenses to appointment eligible physicians and dentists in the same manner and subject to the same limitations provided in 5 U.S.C., sections 5524a, 5706b, 5753 and 5754. The governing VA policy for these additional pay authorities is to be included in the relevant chapters of MP-5, part I. The additional pay authorized under this paragraph is not special pay as provided under 38 U.S.C. section 7432.

b. Beginning in fiscal year 1992, the Department shall reimburse any fulltime, board-certified physician or dentist holding a 7401(1) appointment, formerly 4104(1), up to \$1,000 per year, for expenses incurred for continuing professional education. The additional pay authorized under this subparagraph is not special pay as provided under 38 U.S.C. section 7432. The relevant VA policy for this compensation is to be included in MP5, part II, chapter 5.

Authority: 5 U.S.C., as amended; 38 U.S.C. 7410, 7411.

23. RELATIONSHIP OF SPECIAL PAY TO CIVIL SERVICE RETIREMENT, THE THRIFT SAVINGS PLAN, AND FEDERAL EMPLOYEES GROUP LIFE INSURANCE.

a. Inclusion of Special Pay as Basic Pay

(1) **Special Pay Received Under 38 U.S.C. 7431.** Special pay paid under a section 7432 agreement to any full-time or part-time physician or dentist on and after July 14, 1991, shall be included in basic pay for the purposes of 5 U.S.C., chapters 83 and 84, relating to civil service annuities. This includes those full-time physicians and dentists who were on VA rolls as of October 1, 1980, and elected in writing to waive the withholding of retirement deductions from their special pay received under 38 U.S.C. 4118. In addition, special pay paid under 38 U.S.C. 7431 will be included as basic pay for the purposes of the Thrift Savings Plan.

(2) **Special Pay Received Under 38 U.S.C. 4118.** Special pay paid under 38 U.S.C. 4118, shall be credited in the same manner and to the same extent that such special pay was credited prior to July 14, 1991. For example, special pay received by parttime physicians and dentists, and full-time physicians and dentists, who elected in writing to waive the withholding of retirement deductions from their special pay received under 38 U.S.C. 4118, is not used in the computation of annuities under chapters 83 and 84 of Title 5, U.S.C., or in determining basic pay for the Thrift Savings Plan.

b. Service Requirement for Crediting of Special Pay in Annuity Computation

(1) A physician or dentist who enters into an agreement under 38 U.S.C. 7432 on or after July 14, 1991, who has no prior service as a physician or dentist in the VHA (or its predecessors), must complete no less than 15 years of service as a physician or dentist in VHA in order to have special pay received under 38 U.S.C. 7432 included as basic pay in determining the high three average salary used in the computation of a civil service annuity.

(2) A physician or dentist who has service as a physician or dentist in VHA (or its predecessors) before July 14, 1991, who (a) made a written election before April 1, 1981, not to have retirement deductions withheld from special pay, and who (b) enters into a 7432 agreement will have special pay under the 7432 agreement included as basic pay in determining the high three average salary used in the computation of a civil service annuity on a prospective basis only (on or after July 14, 1991). Special pay these individuals earned under a 4118 agreement will not be included as basic pay for the computation of a civil service annuity. However, service as a physician or dentist in the VHA (or its predecessors) prior to July 14, 1991, is creditable toward meeting the 15-year requirement in the same manner as described in the subparagraph (3), immediately below.

(3) A physician or dentist who enters into a special pay agreement under a 7432 agreement or after July 14, 1991, who has creditable service as a physician or dentist in VHA (or its predecessors) before July 14, 1991, must still meet the 15-year service requirement in order to have special pay received under a 7432 agreement included as basic pay in determining the high three average salary used in the computation of a civil service annuity. However, full-time service as a VA resident (creditable as non-deduction service under the Civil Service Retirement System); full-time service as a physician or dentist performed prior to July 14, 1991, in VHA (or its predecessors); and part-time service, in VHA (or its predecessors), as a physician or dentist (provided the service was at least one-half time and the part-time physician or dentist was in receipt of special pay under 38 U.S.C. 4118), will be used toward the fulfillment of the 15-year service requirement. NOTE: Except for intermittent and without compensation service, any full-time or part-time service performed as a physician or dentist in VHA on or after July 14, 1991, will be counted toward fulfilling the 15-year service requirement.

(4) The special pay considered as basic pay for annuity computation purposes will be as follows:

(a) The amount of special pay the physician or dentist was entitled to receive under a 4118 special pay agreement on July 13, 1991.

(b) In addition to the amount in subparagraph (a) above, the amount of special pay the physician or dentist is entitled to under a 7432 agreement will be compared with the amount under the 4118 agreement. If the special pay entitlement under 7432 agreement is greater than under the 4118 agreement, 25 percent of the difference between the two entitlements will be included in the computation of the civil service annuity for each 2 years of service the physician or dentist completes after July 14, 1991.

(c) ~~As of July 14, 1999,~~ The computation of annuity for physicians and dentists will include all special pay under a 7432 agreement **if the individual has completed 8 full years of creditable service since July 14, 1991.**

(5) Fulfillment of 15 years of service as a physician or dentist in the VA (or its predecessors) is not required for annuities paid under 5 U.S.C. 8337 or 8451, relating to disability retirement, or 5 U.S.C. 8341 (d) or (e) or 8442 (b) or 8443, relating to survivor annuities.

(6) Physicians or dentists whose retirement are not based on disability, and who do not meet the 15-year service requirement, as defined in subparagraph (1), (2), or (3) above, will not receive a refund of retirement deductions that have been taken from their special pay under either a 4118 or 7432 agreement.

c. Special Transition Rules for Tenure Pay for Dentists . The increased amounts of special pay that dentists receive after November 1, 2000, as a result of P.L. 106-419, if they otherwise meet the service requirements for crediting special pay for retirement purposes (see subpar. a and b, above) shall be phased in for credit as basic pay for annuity computations according to the following schedule:

(1) Dentists will receive 25 percent of the difference between the entitlement for tenure pay prior to November 1, 2000, and the amount payable under the provisions of P.L. 106-419 for every two full years of service performed after November 1, 2000.

(2) **EXAMPLE.** A dentist with 23 years of creditable service was entitled to \$4,000 tenure pay prior to November 1, 2000. Under a special pay agreement signed after November 1, 2000, the dentist is entitled to \$18,000. Assuming that all service performed after November 1, 2000 is creditable for retirement:

(a) If the individual retires on or before October 31, 2002, only \$4,000 of the tenure pay is creditable for annuity computations. No portion of the increased tenure pay is vested in annuity computations.

(b) If the dentist retires from VA on or after October 31, 2002, but before October 31, 2004, the individual will have the \$4,000 plus 25 percent of the difference (\$18,000- \$4,000) included in annuity computations.

(c) If the dentist retires from VA on or after October 31, 2004, but before October 31, 2006, the individual will have \$4,000 plus 50 percent of the difference (\$18,000 - \$4,000) included in annuity computations.

(d) If the dentist retires from VA on or after October 31, 2006, but before October 31, 2008, the individual will have \$4,000 plus 75 percent of the difference (\$18,000 - \$4,000) included in annuity computations.

(e) If the dentist retired from VA on or after October 31, 2008, the individual will have the full \$18,000 included in annuity computations.

(3) Other amounts of special pay increased as a result of P.L. 106-419 are immediately creditable to annuity computations, if employees otherwise satisfy service requirements.

(4) This phase-in requirement for tenure pay for dentists described in subpar. (2) will not apply to cases under 5 U.S.C. 8337 or 8451, relating to disability retirement, or 5 U.S.C. 8341(d) or (e), 8442(b) or 8443, relating to survivor annuities.

d. Effect on Federal Employees Group Life Insurance. Special pay received under 38 U.S.C. 7432, or under an agreement entered into under 38 U.S.C. 4118 and in effect on July 13, 1991, will be considered as annual pay for the purposes of 5 U.S.C., chapter 87, relating to life insurance for Federal employees.

Authority: 38 U.S.C. 501(a), 7421(a), 7438.

APPENDIX A. SPECIAL PAY AGREEMENT**SPECIAL PAY AGREEMENT**

TO RECEIVE SPECIAL PAY UNDER 38 U.S.C. 7431

1. As a consequence of my receipt of Special Pay for which I qualify under regulations issued by the Secretary of Veterans Affairs hereinafter referred to as the Secretary, I hereby agree to serve ~~in~~ Veterans Health Administration (VHA) of the Department of Veterans Affairs (VA) for the period beginning____; and ending ____; however, this agreement does not alter the applicability of VHA regulations and procedures concerning terms, conditions, and duration of employment, and this agreement does not constitute an employment contract.
2. This agreement shall be effective upon approval by the Secretary (or designee) of the amount payable, provided I am otherwise eligible, and my entitlement to Special Pay shall commence on the date prescribed in accordance with regulations.
3. I acknowledge that in the event I voluntarily or because of misconduct fail to complete any of the year(s) of service (measured from the anniversary date of my agreement) in a position(s) which entitles me to receive Special Pay, I will refund the specified percentage (listed below) of Special Pay I have received that year unless the Chief Medical Director (CMD), in accordance with prescribed regulations, determines that my failure to complete my agreed period of service is due to circumstances which are beyond my control. It is further agreed that the amounts of the specified percentages will be a debt due to the United States, which I hereby agree to pay in full as directed by the Department of Veterans Affairs. The specified percentages are: (a) 100 percent of the special pay received under the agreement if the failure occurs during the first year; (b) 75 percent of the special pay received in the second year if the failure occurs during that year; (c) 50 percent of the special pay received in the third year if the failure occurs during that year; and (d) 25 percent of the special pay received in the fourth year if the failure occurs during that year.
4. I understand that my entitlement to Special Pay under this agreement will terminate when any of the following occur:
- Separation from employment with the Veterans Health Administration for any reason.
 - Assignment to an excluded category.
 - Completion of agreed period of service, or enactment of superseding law.
 - My specific written request to terminate Special Pay.
 - Execution of a superseding agreement.
5. I understand that a general increase in the rates of basic pay of persons receiving Special Pay may result in a reduction in the amount of the Special Pay I subsequently receive under this agreement.
6. I acknowledge that the regulations in MP-5, part 11, chapter 3, section B, and the VHA Supplement thereto issued by the Secretary (or designee) to implement Special Pay are incorporated into and made a part of this agreement and I have read a copy of those regulations.
7. I acknowledge that the Secretary (or designee), may, pursuant to regulations, adjust the amount of Special Pay to which I am entitled to reflect appropriately any change in my position status from ~~full~~ to parttime, from part-time to full-time, from one proportion of parttime employment to another proportion of parttime employment, or to reflect a change in time spent in a position, specialty, or the level of responsibilities to which I am assigned.

SIGNATURE OF PHYSICIAN OR DENTIST	DATE
APPROVAL BY THE SECRETARY OR (DESIGNEE) OR UNDER SECRETARY FOR HEALTH OR (DESIGNEE)	EFFECTIVE DATE

February 15, 2001

MP-5, Part II
Chapter 3
Section B, Appendix B

APPENDIX B. SPECIAL PAY COMPUTATION SHEET

VA Department of Veterans Affairs		SPECIAL PAY COMPUTATION PHYSICIANS AND DENTISTS																																																	
1. NAME (Last, First, Middle Initial)		2. SOCIAL SECURITY NUMBER	3. STATUS (Check one) <input type="checkbox"/> FULL-TIME <input type="checkbox"/> PART-TIME (Must be ¼ time or more)																																																
4A. OCCUPATION AND ASSIGNMENT	4B. GRADE/STEP	5. EFFECTIVE DATE	6. DATE PREPARED																																																
7. TYPE OF SPECIAL PAY		PHYSICIAN	DENTIST (for agreements after November 1, 2000)																																																
A. FULL-TIME STATUS:		9,000	9,000																																																
B. TENURE: VA Service Date: <table border="0"> <tr> <th colspan="2">PHYSICIANS</th> <th colspan="2">DENTISTS (for agreements after November 1, 2000)</th> </tr> <tr> <td>Less than 2 yrs.</td> <td>0</td> <td>Less than 1 yr.</td> <td>0</td> </tr> <tr> <td>2 yrs. but less than 3</td> <td>4,000</td> <td>1 yr. but less than 2</td> <td>2,000</td> </tr> <tr> <td>3 yrs. but less than 4</td> <td>6,000</td> <td>2 yrs. but less than 3</td> <td>4,000</td> </tr> <tr> <td>4 yrs. but less than 6</td> <td>9,000</td> <td>3 yrs. but less than 4</td> <td>5,000</td> </tr> <tr> <td>6 yrs. but less than 8</td> <td>12,000</td> <td>4 yrs. but less than 6</td> <td>7,000</td> </tr> <tr> <td>8 yrs. but less than 12</td> <td>15,000</td> <td>6 yrs. but less than 8</td> <td>8,000</td> </tr> <tr> <td>12 yrs. but less than 20</td> <td>18,000</td> <td>8 yrs. but less than 9</td> <td>10,000</td> </tr> <tr> <td>20 yrs. but less than 25</td> <td>20,000</td> <td>9 yrs. but less than 10</td> <td>11,000</td> </tr> <tr> <td>25 yrs. or more</td> <td>25,000</td> <td>10 yrs. but less than 12</td> <td>12,000</td> </tr> <tr> <td></td> <td></td> <td>12 yrs. but less than 20</td> <td>15,000</td> </tr> <tr> <td></td> <td></td> <td>20 yrs. or more</td> <td>18,000</td> </tr> </table>		PHYSICIANS		DENTISTS (for agreements after November 1, 2000)		Less than 2 yrs.	0	Less than 1 yr.	0	2 yrs. but less than 3	4,000	1 yr. but less than 2	2,000	3 yrs. but less than 4	6,000	2 yrs. but less than 3	4,000	4 yrs. but less than 6	9,000	3 yrs. but less than 4	5,000	6 yrs. but less than 8	12,000	4 yrs. but less than 6	7,000	8 yrs. but less than 12	15,000	6 yrs. but less than 8	8,000	12 yrs. but less than 20	18,000	8 yrs. but less than 9	10,000	20 yrs. but less than 25	20,000	9 yrs. but less than 10	11,000	25 yrs. or more	25,000	10 yrs. but less than 12	12,000			12 yrs. but less than 20	15,000			20 yrs. or more	18,000	Not More Than 25,000	Not More Than 18,000
PHYSICIANS		DENTISTS (for agreements after November 1, 2000)																																																	
Less than 2 yrs.	0	Less than 1 yr.	0																																																
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4 yrs. but less than 6	9,000	3 yrs. but less than 4	5,000																																																
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		12 yrs. but less than 20	15,000																																																
		20 yrs. or more	18,000																																																
C. BOARD CERTIFICATION: (1) Specialty/First Board Only OR (2) Specialty/First Board Plus Subspecialty/Second Board		2,000 OR 2,500	2,000 OR 2,500																																																
D. GEOGRAPHIC LOCATION: EXP :		Not More Than 17,000	Not More Than 12,000																																																
E. EXCEPTIONAL QUALIFICATIONS (Requires VA Central Office approval)		Not More Than 15,000	Not More Than 5,000																																																
F. EXECUTIVE POSITION (1) Service Chief or comparable (2) Chief of Staff/Executive Grade (3) Director Grade (4) VACO _____		Not More Than 45,000	Not More Than 30,000																																																
G. MEDICAL/DENTAL SPECIALTY WITH EXTRAORDINARY RECRUITMENT/RETENTION DIFFICULTY. (Scarce Specialty) Not authorized with 7F(4) (For information on percent of time, see policy)		Not More Than 40,000 (% of Time)	Not More Than 30,000 (% of Time)																																																
H. POST-GRADUATE TRAINING. (first 2 years only) EXP:		Not applicable	2,000																																																
I. TOTAL SPECIAL PAY: (For part-time employment, payment of this amount is adjusted by the PAID System based on the ratio of parttime to fulltime hours not to exceed ¾.)																																																			
		ANNUAL BASIC PAY																																																	
		TOTAL PAY																																																	
I certify that the above special pay computations are accurate.																																																			
8. SIGNATURE OF REVIEWING OFFICIAL		9. DATE	10. SIGNATURE OF CERTIFYING OFFICIAL																																																
			11. DATE																																																

INSTRUCTIONS FOR COMPLETING COMPUTATION SHEET

1. **Employee Name.** Enter employee's name (last name, first name, and middle initial).
2. **Social Security Number.** Enter employee's SSN.
3. **Status.** Mark the box for "Full-Time" for individuals with administrative tours of 80 hours per pay period. Mark the box for "Part-Time" for employees scheduled for less than 80 hours, but at least 20 hours every pay period. For part-time employees, note the number of hours regularly scheduled each pay period.
4. **a. Occupation and Assignment.** Enter employee's positions (staff dentist, service chief, etc.) and assignment (dentistry, ambulatory care, etc.)
b. Grade/Step. Enter as [Grade]/[Step], using either title (Senior, Chief, etc.) or numeric value (14, 15, etc.) for the grade and numeric step.
5. **Effective Date.** Date that reflected amounts will be effective (if prepared prospectively. If amounts are proposed, enter "Proposed" in box.
6. **Date Prepared.** Date the computation sheet is completed.
7. **Type of Special Pay.** Ranges are noted on the form. Refer to VHA Directive and attached Handbook for additional guidance.
 - a. **Full-Time.** For full-time employees only, enter amount in right-hand column - \$9,000.
 - b. **Length of Service (Tenure).** Enter VA service date in left-hand column for reference and to double-check reported amount. Enter annual amount listed on form based on full years of creditable VHA service.
 - c. **Board Certification.** Enter names of board certifications held by employee with expiration dates, if applicable, in left-hand column. This information should be cross-checked against PAID master record coding. Enter annual amount in right-hand column - \$2,000 for 1 general or specialty board certificate, \$2,500 for 2 or more general/specialty and related subspecialty board certificates.
 - d. **Geographic Location*.** Enter category for which the component is authorized and expiration date of authorization in left-hand column. Ensure that this information is correctly coded in PAID _____. Enter the annual amount in the right-hand column.
 - e. **Exceptional Qualifications.** Enter annual amount authorized by Under Secretary of Health, if applicable.
 - f. **Executive Position (Responsibility).** Enter annual amount authorized for individual. Ensure that amount is within statutory range for the position or grade.
 - g. **Scarce Specialty Pay*.** Enter annual amount authorized for the individual in left-hand column. Enter percentage of time spent in direct patient care in parentheses in center columns. Multiply individual's annual amount by percentage and enter result in right-hand column.

- h. **Post-Graduate Training.** For dentists only, enter \$2,000 for the first two years of VHA service following completion of postgraduate hospital-based training in a program certified by the ADA.
- i. **Total Special Pay.** Add the amounts recorded in right-hand column.
- j. **Annual Basic Pay.** Enter the annual amount for the employee's grade/step. Include GAP, if applicable.
- k. **Total Pay.** Add the total special pay and annual basic pay together.
- l. **Reviewing Official.** For the signature of the HRM Officer
- m. **Certifying Official.** For the signature of the Network Director or facility director or designee, as specified in par. 7 of the basic chapter.

*** Special Instructions for GAP Stations:** Employees receiving GAP will have the GAP amount offset dollar for dollar against geographic location and scarce specialty pay, if applicable. The offset or reduced annual amounts should be entered in the right-hand column for these components.

NOTE: For part-time employees: **Procedures for completing the form are the same as for full-time employees, except for item 7a. The total annual amount is prorated according to the individual's scheduled hours, not to exceed 75 percent of the annual amount.**

SPECIAL PAY FOR LENGTH OF SERVICE

1. The Secretary has delegated to the Under Secretary for Health the authority to specify the amount of special pay for length of service within the statutory range authorized for this component. To be eligible for special pay for length of service, the VHA service may include leave without pay and need not have been continuous but must have been under 38 U.S.C. 7306, 7401(1), or 7405(a)(1)(A), under a career residency, VA fellowship, the Career Development Program (see M-3, pt. II, ch. 8), or be otherwise creditable for periodic step increases or rate adjustment purposes, as outlined in section A of this chapter.

2. Physicians and dentists receive special pay for length of service in the amounts specified below:

PHYSICIANS

At Least	But Less Than	Dollars
2 (Years)	3 (Years)	\$4,000
3	4	6,000
4	6	9,000
6	8	12,000
8	12	15,000
12	20	18,000
20	25	20,000
25 and More		25,000

DENTISTS

**(for agreements effective
after November 1, 2000)**

<u>At Least</u>	<u>But Less Than</u>	<u>Dollars</u>
1 Year	2 Years	\$ 2,000
2 Years	3 Years	4,000
3 Years	4 Years	5,000
4 Years	6 Years	7,000
6 Years	8 Years	8,000
8 Years	9 Years	10,000
9 Years	10 Years	11,000
10 Years	12 Years	12,000
12 Years	20 Years	15,000
20 Years and More		18,000

DENTISTS
(for agreements effective
before November 1, 2000)

<u>At Least</u>	<u>But Less Than</u>	<u>Dollars</u>
2 Years	4 Years	\$ 1,000
4 Years	8 Years	2,000
8 Years	12 Years	3,000
12 Years	20 Years	3,500
20 Years and More		4,000

3. Initial payments and increases in length of service pay are effected on the first day of the first pay period following completion of the required years of service.

Authority: 38 U.S.C. **501(a), 7421(a), 7431, 7433, 7435.**

SPECIAL PAY FOR SPECIFIC GEOGRAPHIC LOCATIONS

1. Special pay for service in a geographic location may be authorized when it has been determined there are extraordinary problems recruiting or retaining specific categories of physicians and dentists. The range of special pay authorized for physicians is \$0 \$17,000; for dentists it is \$0 - \$12,000 (for dentists on agreements effective after November 1, 2000) or \$0 - \$5,000 (for dentists on agreements signed prior to November 1, 2000). Normally, this component of special pay will not be authorized for all physicians or dentists at a facility, since it is used to address recruitment and retention problems affecting a specific clinical category; i.e., specialty of physicians or dentists.

~~NOTE: With the exception of the circumstances noted in the following sentence, all geographic special pay authorizations in effect prior to July 14, 1991, will terminate effective July 14, 1991. The exception covers physicians and dentists who remain on existing 4118 special pay agreements under which geographic pay was authorized prior to July 14, 1991. They will continue to receive previously authorized geographic special pay until either the 4118 agreement or the geographic special pay authorization expires, whichever occurs first. Entitlement to geographic special pay will terminate if the physician or dentist enters into a 7432 agreement for which geographic location pay has not been authorized. (This paragraph is no longer pertinent)~~

2. Subject to the limitations in MP-5, part II, chapter 3, section B, paragraph 8, facility Directors may authorize geographic location pay up to \$17,000 per annum in accordance with the provisions of paragraphs 3 through 8 below. The authority of facility Directors to approve geographic location pay, which was rescinded March 27, 1992, is restored effective January 28, 1994. This delegation does not obviate the requirement to obtain the Under Secretary's approval for a specific individual if the authorization of geographic location pay would cause the total pay of the affected employee to exceed \$190,000 for the first time or to exceed the amount previously approved above \$190,000.

3. Geographic special pay authorizations will be applicable for 18 months (39 pay periods), and are effective on the first day of the first pay period immediately following approval. Authorizations will not be approved on a retroactive basis. Facility Directors may extend, decrease, or terminate geographic special pay authorizations approved at the facility level, using the guidelines in paragraphs 5 through 7 below. Facility Directors may also increase locally approved authorizations up to \$17,000 maximum.

4. The geographic special pay of covered physicians and dentists will not be reduced or terminated until the 18-month authorization expires. If an authorization is extended, covered physicians and dentists shall receive the amount of geographic special pay authorized during the extension period.

5. Requests will contain the following information:

(a) The category or categories of positions for which geographic special pay is being requested.

(b) The amount of geographic special pay requested.

(c) Information relating to recruitment/retention including:

(1) Characteristics of the immediate community, to include economic conditions in the local commuting area; e.g., housing, food, utilities, commuting expenses.

(2) Nature and intensity of any affiliation.

(3) Any working conditions or other factors contributing to recruitment and/or retention difficulties.

(4) Number of authorized positions, number of vacant positions, specific reasons for the vacancies and how long the vacancies have actively existed.

(5) Any *bona fide* offers of employment from non-VA employers for current employees (including salary offered by competitors).

(d) How the duties of the position are currently being performed, including the cost of alternative sources for patient-care services where utilized (e.g., fee basis or contracts).

(e) Effect of recruitment/retention problems on the quality of patient care.

(f) A description of recruitment efforts including:

(1) Area of recruitment, methods used (e.g., copies of and/or information about paid ads and responses, Special Examining Unit participation, allfield teletypes), numbers and dates of contacts made.

(2) Number of formal job offers made, number of declinations and reasons for declinations.

(g) Information about competition for candidates from other employers including any available information on salary comparisons with non-Federal employers. Information may be obtained from a variety of sources such as the American Medical Association or the Association of American Medical Colleges, the Chamber of Commerce, or from other published surveys.

(h) Cost of geographic special pay if approved.

(i) Any other pertinent facts available.

~~6. Retired military personnel generally are not eligible for geographic special pay unless they have an exception to the dual compensation restrictions of 5 U.S.C. 5532 (see VA Manual MP 5, pt. I, ch. 550, sec. F).~~

~~—7.~~ A physician or dentist who is currently in receipt of or is eligible for interim geographic adjustment pay (GAP), under the Federal Employees Pay Comparability Act of 1990, shall receive the greater benefit of the GAP or special pay for geographic location under this section. The greater benefit shall be determined by comparing the percentage of basic pay represented by

geographic special pay to the GAP percentage. If the percentage represented by geographic special pay exceeds the GAP percentage, the individual's geographic special pay will be offset dollar-for-dollar by the GAP amount. If the GAP percentage exceeds the percentage represented by geographic special pay, the geographic special pay will be completely offset by the GAP.

NOTE: If the employee is to receive both geographic special pay under this appendix and scarce specialty pay under appendix F, the combination of the two will be used when making the comparison to the GAP. No component of special pay shall be used in calculating the GAP adjustment; only basic pay is used (see par. 2e of app. F to this sec.).

7. Facility Directors will establish facility files on locally approved geographic special pay which will contain the information cited in paragraph 5 above. Facility files will be subject to audit and corrective action will be taken if upon review the documentation does not support the authorization.

Authority: 38 U.S.C. 501(a), 7304, 7421(a), 7433, 7435.

SPECIAL PAY FOR RESPONSIBILITY

1. SCOPE

a. This appendix implements the Secretary's policies and procedures for payment of special pay based on responsibility level. The statutory ranges authorized are set forth in paragraphs 6 and 7 below.

2. GENERAL CRITERIA

a. The rate for this component of special pay is to be calculated based on the proportion of time the physician or dentist serves in the position during the year. For example, if a service chief is promoted to a chief of staff position effective June 1, the individual would be entitled to responsibility pay as a service chief for that portion of the year he/she served as a service chief and responsibility pay as a chief of staff for the remainder of the year. The proportion of time will be determined at the time of assignment and shall be redetermined when there is a change in assignment to include transfers between facilities. The proportion of time spent in the assignment is to be verified annually on the anniversary date of the special pay agreement, in conjunction with the annual verification of special pay computation (see MP5, part II, sec. B, par. 15), or at other times as required by the appropriate approving official.

b. The rate of responsibility pay for a part-time physician or dentist service chief shall be prorated based on the proportion of time the individual's part-time employment bears to fulltime employment and that ratio can not exceed 75 percent. For example, \$9,000 responsibility pay is authorized for a full-time service chief. If a .5 service chief spent 100 percent of his/her time in the position, the individual's special pay for this component would be 50 percent of the fulltime amount authorized for the position at that facility. NOTE: The applicable amount for a fulltime employee, i.e., \$9,000 is to be entered into item 7f or VA Form 10-5379e, Special Pay Computation -- Physicians and Dentists; however, it is automatically prorated by the PAID system based on the individual's part-time employment.

Authorized: 38 U.S.C. 501(a), 7421(a), 7431.

3. SERVICE CHIEFS, EQUIVALENT POSITIONS, AND CHIEFS OF STAFF

a. **Individuals in covered positions will** receive responsibility pay linked to the complexity level of the **assignment and** facility to which assigned.

b. The Under Secretary has delegated to facility Directors the authority to set the actual dollar amount within the established ranges for this component of special pay for Service Chief positions. In determining the appropriate amount, the facility Director will consider the following factors:

- (1) Recency of assignment to the position;
- (2) The complexity and size of the service;

(3) Any unique combination of education and experience the individual brings to the assignment; and

(4) Any other factors the facility Director deems appropriate in making the determination.

c. The Network Directors are delegated authority to set the actual dollar amount for Chiefs of Staff including network staff. In determining the appropriate amount, the Network Director will consider the following factors:

(1) Recency of assignment to the position;

(2) Complexity of the medical facility;

(3) Any unique combination of education and experience the individual brings to the assignment; and

(4) Any other factors the Network Director deems appropriate.

Authority: 38 U.S.C. 501(a), 7421(a), 7433, 7435.

4. EXECUTIVE GRADE ASSIGNMENTS

a. In addition to facility Chiefs of Staff and network staff, all physicians and dentists in assignments at Executive Grade receive responsibility pay. Amounts for individuals in Executive grade assignments in the field are determined by the appropriate official. In all cases, the following factors will be considered:

(1) Recency of assignment;

(2) The complexity level of the facility;

(3) Any unique combination of education and/or experience the individual brings to the assignment; and

(4) Any other factors the approving official deems appropriate.

b. Amounts for individuals in Executive grade assignments in Central Office will be determined by the Under Secretary.

Authority: 38 U.S.C. 501(a), 7421(a), 7433, 7435.

5. COMBINED CENTRAL OFFICE AND FIELD ASSIGNMENTS

a. Physicians and dentists whose assignments involve a combination of VA Central Office duties and duties outside of VA Central Office will, if otherwise eligible, receive the appropriate percentage of responsibility pay for the combined responsibilities. For example, a physician serving a dual role as a Central Office Service Director (49 percent) and as a Service Chief (51

percent) at a medical center would receive 51 percent of the appropriate amount for Service Chief and 49 percent of the appropriate amount for performing Central Office Service Director duties. The physician or dentist is not eligible for a percentage of scarce specialty pay for any portion of the 49 percent spent on Central Office Service Director duties. In addition, the physician or dentist may be eligible for a percentage of scarce specialty pay for patient care responsibilities performed in conjunction with the Service Chief responsibilities at the field facility (see app. F, par. 10). NOTE: When VA Form 10-5379e, Special Pay Computation -- Physicians and Dentists, is completed, a fraction resulting from any computation will be adjusted to the nearest whole dollar (counting 50 cents or more as a whole dollar).

b. Physician or dentist Directors of medical centers, domiciliarys and outpatient clinics who have been authorized to receive special pay by the Under Secretary, shall be eligible for this component of special pay (see subpar. 1c(2) (a) of this section).

Authority: 38 U.S.C. **501(a), 7421(a), 7431, 7433, 7435.**

6. RANGES OF RESPONSIBILITY PAY FOR SERVICE CHIEFS AND CHIEFS OF STAFF

Established ranges are as follows:

RESPONSIBILITY PAY -- SERVICE CHIEFS AND EQUIVALENT POSITIONS

<u>Physician Range</u>	<u>Dentist Range</u>
\$4,500 - \$15,000	\$4,500 - \$15,000 (for agreements effective after November 1, 2000)
	\$1,000 - \$5,000 (for agreements effective prior to November 1, 2000)

RESPONSIBILITY PAY -- CHIEFS OF STAFF AND EXECUTIVE GRADE ASSIGNMENTS

<u>Physician Range</u>	<u>Dentist Range</u>
\$14,500 - \$25,000	\$14,500 - \$25,000 (for agreements effective after November 1, 2000)
	\$1,000 - \$8,000 (for agreements effective prior to November 1, 2000)

RESPONSIBILITY PAY -- DIRECTOR GRADE

Physician Range

\$0 - \$25,000

Dentist Range

\$0 - \$25,000

(for agreements effective
after November 1, 2000)

\$0 - \$8,000

(for agreements effective
prior to November 1, 2000)

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7433, 7435.

7. RANGES OF RESPONSIBILITY PAY FOR VA CENTRAL OFFICE ASSIGNMENTS

Established ranges are as follows:

RESPONSIBILITY PAY -- VA HEADQUARTERS POSITIONS

<u>Position</u>	<u>Physicians</u>	<u>Dentists</u>
Under Secretary for Health	\$45,000	
Deputy Under Secretary for Health	\$40,000	
Assoc. Deputy Under Secretary	\$35,000	
Assistant Chief Medical Director	\$30,000	\$30,000 (for agreements effective after November 1, 2000)
		\$10,000 (for agreements effective prior to November 1, 2000)
Deputy Asst. Chief Medical Director	\$27,500	\$27,500 (for agreements effective after November 1, 2000)
		\$10,000 (for agreements effective prior to November 1, 2000)

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Service Director	\$25,000	\$25,000 (for agreements effective after November 1, 2000) \$1,000 - \$8,000 (for agreements effective prior to November 1, 2000)
Deputy Service Director	\$20,000	\$20,000 (for agreements effective after November 1, 2000) \$1,000 - \$8,000 (for agreements effective prior to November 1, 2000)

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7433, 7435.

SPECIAL PAY--SCARCE MEDICAL AND DENTAL SPECIALTIES

1. SCOPE

a. This appendix implements the Secretary's policies and procedures for payment of special pay for scarce medical and dental specialties on both a nationwide and facility specific basis. These policies and procedures are based on the recommendations of the Under Secretary for Health.

b. Physicians and dentists signing special pay agreements on or after July 14, 1991, who have been determined by the certifying official to be specialty trained (see sec. B, par. 4a) are eligible for this component of special pay if they have been assigned to one of the designated specialties.

c. Physicians and dentists receiving pay for responsibility level in VA Central Office are not eligible for special pay for scarce medical and dental specialties.

d. Physicians and dentists receiving pay based in part on Central Office duties and responsibilities and in part on field facility patient care responsibilities may be eligible for this component of special pay under paragraph 10 below.

e. Physicians and dentists serving in Chief of Staff positions and other administrative positions outside of VA Central Office may be eligible for this component of special pay under paragraph 10 below.

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7433, 7435.

2. GENERAL CRITERIA

a. Staff physicians and dentists who spend all of their VHA time assigned to a specialty area are entitled to 100 percent of scarce specialty pay (subject to proration for part-time employment).

b. For physicians and dentists who spend a portion of their time in a scarce specialty, and a portion of their time in a medical specialty which is not designated as a scarce specialty, the actual amount of scarce specialty pay shall be determined by the percentage of time the individual works in the scarce specialty. NOTE: When the Special Pay Computation--Physicians and Dentists, VA Form 105379e, is completed, a fraction resulting from any computation will be adjusted to the nearest whole dollar (counting 50 cents or more as a whole dollar). The proportion of time spent in the scarce specialty is to be verified annually on the anniversary date of the special pay agreement, in conjunction with the annual verification of special pay computation (see sec. B, subpar. 15b), or at other times as required by the appropriate approving official.

c. The rate of scarce specialty pay for a part-time physician or dentist shall be prorated based on the proportion of time the individual's part-time employment bears to fulltime

employment and that ratio cannot exceed 75 percent. For example, if a 7/8 physician or dentist spends 50 percent of his/her time in a scarce specialty, the actual entitlement is arrived at by entering 50 percent of the amount applicable to a full-time employee in item 7g of VA Form 10-5379e, Special Pay Computation-- Physicians and Dentists. The total amount of special pay is also entered in item 7h of the VA Form 10-5379e; however, the PAID system automatically adjusts the total to an amount which does not exceed 75 percent of the entitlement of a similar full-time employee, and prorates that amount based on the individual's part-time employment.

d. Generally, the amount of scarce specialty pay authorized for a category or group of individuals in a given specialty or subspecialty will be uniformly applied. For example, if \$15,000 is authorized for psychiatrists, each psychiatrist will receive the appropriate proportion of \$15,000 based on the percentage of time each spends in the specialty. However, based on the needs of the facility **and distinctions in qualifications among practitioners** distinctions in amounts of scarce specialty pay may be made between a specialty or subspecialty **and among individuals**. For example, different amounts could be authorized for diagnostic radiology and therapeutic radiology. **Additionally, different amounts could be authorized according to differences in credentials, privileges to perform specialized procedures, quality and breadth of experience, accomplishments in teaching, research, and administration, honors and awards from professional societies, and any other criteria that are considered appropriate when determining the amount of scarce specialty pay.** (VA Circular 00-91-25, dated November 20, 1991)

e. A physician or dentist who is currently in receipt of or is eligible for interim geographic adjustment pay (GAP), under the Federal Employees Pay Comparability Act of 1990, shall receive the greater benefit of the GAP or special pay for scarce specialty under this section. The greater benefit shall be determined by comparing the percentage of basic pay represented by scarce specialty pay to the GAP percentage. If the percentage represented by scarce specialty pay exceeds the GAP percentage, the individual's scarce specialty pay will be offset dollar-for-dollar by the GAP. If the GAP percentage exceeds the percentage represented by the scarce specialty pay, the scarce specialty pay will be completely offset by the GAP amount. NOTE: If an individual is to receive both scarce special pay under this appendix and geographic special pay under appendix D to this section, the combination of the two will be used when making the comparison to the GAP. No component of special pay shall be used in calculating the GAP adjustment; only basic pay is used (see par. 8 of app. D to this sec.).

Authority: 38 U.S.C. **501(a), 7421(a), 7433, 7435.**

3. NATIONWIDE SCARCE MEDICAL SPECIALTIES AND RANGES

The Under Secretary will review this component of special pay annually and, when necessary, approve appropriate adjustments up to the statutory limitation for this component (\$40,000). The annual amount of scarce specialty pay authorized for a physician or dentist may not be reduced during the term of an existing special pay agreement (see sec. B, par. 13). Generally, the amount of scarce specialty pay will not change during the life of an agreement; however, if after a reasonable period of time, normally, at least a year, the amount of scarce specialty pay authorized for a particular category is not sufficient to recruit or retain qualified physicians or dentists in that specialty, a higher amount for that category may be authorized or requested, up to

the maximum amount designated for the given rate range. NOTE: A new agreement is not required if an increase in scarce specialty pay is approved.

a. If the amount of the increase in scarce specialty pay is within the facility Director's authority to approve and the resulting increase in total pay (basic pay plus special pay) for all affected physicians or dentists does not require a higher level of approval (see sec. B, par. 8), the facility Director may authorize the increase provided the need can be documented and is justified based on the criteria specified in paragraphs 6 and 9 of this appendix.

b. If an increase in the amount of the scarce specialty component will result in a physician or dentist receiving annual pay (basic pay plus special pay) in excess of \$90,000, the prior approval of the Under Secretary is required. NOTE: If the Under Secretary imposes a limitation on a request, this limitation would not impact the amount authorized for the scarce specialty component if it were otherwise approved by the facility Director.

c. Requests requiring the approval of the Under Secretary must be submitted through channels to (051).

d. The categories which have been designated as scarce medical specialties based on nationwide recruitment and retention difficulties and the ranges of special pay established for the categories are shown below.

Specialty with Range of \$0 - \$40,000

Anesthesiology	Orthopedic Surgery
Cardiovascular/Thoracic Surgery	Otolaryngology
Radiology (Nuclear Medicine)	Ophthalmology
Radiology (Diagnostic)	Neurosurgery
Radiology (Therapeutic)	Plastic Surgery
Cardiology	Physiatry
General Surgery	Psychiatry
Nuclear Medicine	Spinal Cord Injury
Urology	Physical Medicine and Rehabilitation
Gynecology	Gastrointestinal
Pathology	Primary Care *

~~*Spinal Cord Injury is not recognized as a specialty by the American Board of Medical Specialties or the Advisory Board for Osteopathic Specialists. However, physicians assigned to an approved Spinal Cord Injury Center for at least 75 percent of their VA appointment are eligible for scarce specialty pay if the certifying official determines they are specialty trained in an appropriate specialty such as neurology, internal medicine or family practice. Individuals assigned to a Spinal Cord Injury Center who are working in any of the specifically designated scarce specialties above would be eligible for a scarce special pay amount that is within the range specified for the specialty.~~

* Primary care represents the basic level of patient care. It consists of the delivery of acute and chronic care for medical, psychiatric and social conditions, delivery of preventive health interventions, patient and care giver education, referral for specialty care when indicated, and the

overall management and coordination of care for an individual. It is differentiated from specialty care which generally focuses on care for one organ system or procedure. The actual amount of pay for this component shall be determined by the percentage of time the individual works in direct patient primary care services. To receive 100 percent of this component, a physician must work full-time in the specialty. If an individual also provides direct patient care in another designated scarce specialty, the amount of pay received for this component would be prorated based on the amount of time spent in each specialty. For example, if an individual works 50 percent in cardiology and 50 percent in primary care, the amount of scarce specialty pay received would be prorated based on the percent of time spent in each specialty.

Authority: 38 U.S.C. 7431, 7433.

4. NATIONWIDE SCARCE DENTAL SPECIALTY AND RANGE

The statutory range is \$0 - 30,000 for agreements effective after November 1, 2000) (\$0 - \$20,000 for agreements effective prior to November 1, 2000). Scarce dental specialties are:

Endodontics (added 11/1/2000)
Oral and Maxillofacial Surgery

Periodontics (added 11/1/2000)
Prosthodontics (added 11/1/2000)

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7435.

5. APPROVAL AUTHORITIES FOR NATIONWIDE SCARCE SPECIALTIES

Scarce specialty pay of up to the applicable statutory limits ~~\$40,000 per annum for physicians and up to \$20,000 per annum for dentists~~ may be authorized by the facility Director.

Authority: 38 U.S.C. 501(a), 7421(a), 7431.

6. CRITERIA FOR DETERMINATION OF APPROPRIATE AMOUNT OF NATIONWIDE SCARCE SPECIALTY PAY

The criteria below will be used in determining the appropriate amount of scarce specialty pay. Facility Directors must document locally approved determinations that will be retained locally and may be subject to review by appropriate officials. Determinations that require approval by a higher level than the facility Director will be submitted and will contain documentation based on the criteria below in support of the recommended amount of scarce specialty pay:

- a. The number of positions affected at the facility.
- b. Vacancy rate in the specialty at the facility.
- c. Turnover rate in the specialty at the facility.
- d. Any *bona fide* offers of employment from non-VA employers for current employees (including salary offered by competitors).

- e. Cost of contract/fee basis services to the extent, these are currently being used to provide coverage.
- f. Recruitment efforts (e.g., what sources used to recruit, information about and/or copies of paid ads and responses, teletypes) and results (e.g., number of offers made, number of offers turned down and why).
- g. Salary comparisons with non-Federal employers. Information may be obtained from a variety of sources such as private firms, the American Medical Association, the Association of American Medical Colleges, local Chambers of Commerce, and other available local salary information;
- h. Economic conditions in the local commuting area; such as housing costs, food, utilities, commuting expenses, etc.
- i. Any other locally specific factors which bear on the facility's ability to recruit and retain individuals in the scarce medical or dental specialty.

Authority: 38 U.S.C. 501(a), 7421(a), 7431.

7. FACILITY SPECIFIC SCARCE MEDICAL OR DENTAL SPECIALTIES

Special pay for a scarce medical or dental specialty may be authorized on a facility-specific basis. This component of special pay is not limited to specialties with nationwide recruitment or retention problems and is intended to give VHA the flexibility to respond to recruitment and retention problems in a specialty at a specific facility or facilities. A physician or dentist may not receive scarce specialty pay on the basis of the needs of a specific facility unless the approving official also determines that geographic location pay is insufficient to meet the needs of the facility. The facility Director retains authority to approve requests for facility-specific scarce specialty pay. **NOTE:** The same procedures described in paragraph 2e of this appendix are to be followed when calculating the actual dollar amount of scarce specialty pay a physician or dentist would be entitled in conjunction with receiving GAP.

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7433, 7435.

8. CRITERIA FOR FACILITY SPECIFIC SCARCE MEDICAL OR DENTAL SPECIALTY PAY

The following criteria must be met prior to submission of a request for facility specific scarce specialty pay, and the requests will address all of the criteria:

- a. Documentation of extraordinary recruitment or retention problems must exist at the facility or facilities as evidenced by excessive vacancy or turnover rates; e.g., vacancy rate of 30 percent or more on an annualized basis, or positions vacant for 6 months or more, or turnover rate of 50 percent or more on an annualized basis in the specialty.

- b. Any *bona fide* offers of employment from non-VA employers for current employees (including salary offered by competitors).
- c. The maximum amount of geographic special pay must have been already authorized for a minimum of 120 days (4 months) for the specialty at the facility or facilities.
- d. Documented evidence of recruitment activity/results after the authorization of the geographic special pay for the specialty; e.g., information about and/or copies of paid ads and responses, Special Examining Unit participation, teletypes.
- e. Documented evidence (e.g., letters, reports of contact) of job offers turned down and the reasons).
- f. Cost of contract/fee basis services to the extent these are currently being used to provide coverage.
- g. Salary comparisons with non-Federal employers. Information may be obtained from a variety of sources such as private firms, the American Medical Association, the Association of American Medical Colleges, local Chambers of Commerce, and other available local salary information.
- h. Economic conditions in the local commuting area such as housing costs, food, utilities, and commuting expenses.
- i. Any other locally specific factors which bear on the facility's ability to recruit and retain individuals in the scarce medical or dental specialty (e.g., remote location, lack of affiliation).

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7433, 7435.

9. COORDINATION

Facilities in the same local labor market must coordinate determinations of nationwide scarce specialty pay amounts to avoid competition among VA facilities. Facilities must also coordinate facility-specific scarce specialty pay if more than one facility in the local labor market has individuals working in the specialty. However, in some instances, all facilities in a geographic area will not find it necessary to authorize the identical amount of scarce specialty pay; e.g., the mission of the facilities may not be identical.

Authority: 38 U.S.C. 501(a), 7421(a), 7431.

10. SCARCE SPECIALTY PAY FOR COMBINATION ASSIGNMENTS

a. **Combined VA Central Office and Field Station Duties.** Physicians and dentists whose assignments involve a combination of VA Central Office duties and patient care duties outside of VA Central Office will if otherwise eligible receive the appropriate percentage of scarce specialty pay for patient care responsibilities in the field. For example, a physician or dentist serving a dual role as a Central Office Service Director (49 percent) and as a Chief of Service (51

percent) at a medical center would receive scarce specialty pay for the percentage of time the physician worked in the specialty while performing Chief of Service duties at the facility.

b. **Service Chiefs, Chiefs of Staff and Other Administrative Assignments.** Service Chiefs, Chiefs of Staff, and other physicians and dentists with administrative assignments at a field facility that permit the performance of patient care responsibilities in conjunction with administrative duties will, if otherwise eligible, receive scarce specialty pay for the percentage of time the individual performs direct patientcare in that scarce specialty. This scarce specialty pay is in addition to the responsibility pay to which the physician or dentist would otherwise be entitled. Notwithstanding the approval levels and limitations in paragraphs 7 and 8 of this section, the Network Director is authorized to determine the applicability of this component and the applicable percentage of time worked in the scarce specialty for Chiefs of Staff. The facility Director is authorized to make the same determination for Service Chiefs and other administrative assignments.

Authority: 38 U.S.C. 501(a), 7421(a), 7431.

**SPECIAL PAY -- POST-GRADUATE TRAINING PAY
(FOR DENTISTS ONLY)**

Effective with special pay agreement effective after November 1, 2000, dentists who present evidence of having completed a post-graduate year of hospital-based training in a program accredited by the ADA will receive \$2,000 per year for the first two years of VHA service performed after completing the training. The payment will be paid in the same manner as the other components of special pay: it is prorated for part-time service, it is subject to the statutory limit on part-time payment of 75 percent, and it is not payable to excluded categories of positions. Entitlement to this component will cease the beginning of the first pay period beginning on or after the first two full years of VHA service performed after completing an ADA-accredited hospital-based training program.

Authority: 38 U.S.C. 501(a), 7421(a), 7431, 7435(b)(8).

CHAPTER 3. PAY ADMINISTRATION

SECTION C. ABOVE-MINIMUM ENTRANCE RATES OR SPECIAL SALARY RATE RANGES FOR CERTAIN VETERANS HEALTH ADMINISTRATION GENERAL SCHEDULE EMPLOYEES - Also see [VA Directive 10-94-124](#)

1. SCOPE AND EXCLUSIONS

a. **Scope.** This section sets forth the policies and procedures governing above-minimum entrance rates or special salary rate ranges for VHA (Veterans Health Administration) General Schedule employees providing direct patient care services or services incident to direct patient care approved under the provisions of 38 U.S.C. 7455(a)(2)(B). This section also applies to VHA police officers whose above-minimum entrance rates or special salary rates ranges are approved under 38 U.S.C. 7455(a)(2)(C).

b. **Exclusions.** This section does not apply to: (1) VHA General Schedule administrative, clerical and physical plant maintenance personnel whose special salary rates are approved by OPM (Office of Personnel Management) under 5 U.S.C. 5303 and chapter 530 of part I of this manual; (2) employees compensated under the Performance Management and Recognition System (5 U.S.C. 5402); or (3) VHA personnel whose above-minimum entrance rates or special salary rate ranges are approved under 38 U.S.C. 7455(1)(A) and section D of this chapter, i.e., physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, physician assistants, expanded-function dental auxiliaries, board certified clinical or counseling psychologists, licensed physical therapists, registered or certified respiratory therapists and licensed practical or vocational nurses.

Authority: 38 U.S.C. 501(a), 7455.

2. REFERENCES

- a. 38 U.S.C. 7455.
- b. Section 2(d), Veterans' Administration Programs Improvement and Extension Act of 1982 (Pub. L. 97-251).
- c. Section 101(a)(1), Veterans' Health Care Act of 1984 (Pub. L. 98-528).
- d. Executive Order 12438, dated August 23, 1983.

3. POLICY

- a. **Reasons for a Request.** Requests may be submitted only to:
 - (1) Assist in the recruitment or retention of well-qualified employees where there is evidence of recruitment or retention problems which are being caused by higher non-Federal rates of pay;

(2) Provide basic pay in amounts competitive with, but not exceeding, the amount of the same types of pay paid to the same category of personnel at comparable non-Federal facilities in the same labor market;

(3) Achieve adequate staffing at particular facilities; or

(4) Recruit personnel with specialized skills, especially those skills which are difficult or demanding.

b. **Recommendation of Rates.** Officials responsible for recommending or approving salary rate determinations (see MP-5, pt. I, ch. 250, par. 12) are responsible for detecting and reporting the need for above-minimum entrance rates or special salary rate ranges.

c. **Preconditions.** Submission of a request presupposes all recruitment possibilities have been exhausted and full attention has been given to addressing any retention considerations such as working conditions and duty assignments. A request also presupposes sound and effective position management, as well as properly classified positions.

d. **Other Limitations**

(1) The authority in this section is to be used as a management tool to enable VA to recruit and retain sufficient numbers of capable, well-qualified personnel. However, pay rates shall not be set at levels above those necessary to meet recruitment and retention needs. The requesting official must carefully examine these needs against recruitment and retention experiences, competitive pay rates, and the available supply of well-qualified candidates to determine whether a request for above-minimum entrance rates or special salary rate ranges would be most appropriate. Typically, a request for above-minimum entrance rates is more appropriate when the staffing problem is primarily one of recruitment. A request for special salary rate ranges is generally appropriate when significant retention or recruitment *and* retention problems are in evidence.

(2) The maximum rate established for a grade under this section may not exceed the minimum rate prescribed by statute for the grade by more than 90 percent. The maximum rate for any employee so increased may not exceed the rate paid individuals serving as Assistant Under Secretary for Health.

Authority: 38 U.S.C. 501(a), 7455.

4. RESPONSIBILITIES

a. Under Secretary for Health is authorized to approve, adjust, or discontinue rates under this section. The Under Secretary for Health shall, not less than 45 days prior to the proposed effective date of the increase, notify the Director of the Office of Personnel Management of the Under Secretary for Health's intention to approve such an increase. In addition, the Director of the Office of Personnel Management may disapprove such an increase under the provisions of 38 U.S.C. 7455(d)(2).

b. **Deputy Assistant Secretary for Human Resources Management** will advise management and operating officials on the policies and procedures contained herein.

c. **VISN Director**

(1) Reviews facility requests for rates under this section to ensure they are consistent with the criteria contained in this section and the Veterans Health Administration Supplement thereto.

(2) May approve a facility's request to use an above-minimum entrance rate or special salary rate as the highest previous rate under paragraph 7c(1)(c).

d. **VISN Director** is responsible for designating a lead facility for the submission of a consolidated request whenever more than one facility in the same labor market would be affected by such a request.

e. **Facility Director** is responsible for properly submitting requests under this section and for ensuring that approved rates continue to meet the criteria contained herein. This includes recommending the reduction or termination of above-minimum entrance rates or special salary rate ranges whenever they are no longer appropriate.

f. **Human Resources Management Officer** at the submitting facility is responsible for coordinating requests submitted under this section with other non-VA Federal agencies in the local labor market which have the same type(s) of personnel for which rates are being requested. This coordination should be done early enough to give local non-VA Federal agencies the opportunity to consider the preparation and submission of a request to the Office of Personnel Management for special salary rates under 5 U.S.C. 5305.

Authority: 38 U.S.C. 501(a), 7455.

5. SUBMISSION OF REQUESTS

a. **Where to Submit.** All requests for above-minimum entrance rates or special salary rate ranges for employees under paragraph 1a above are to be submitted to the appropriate VISN Director (10N_). Incomplete, improperly prepared or inappropriate requests will be returned by the VISN Director without further action. If approval is recommended, the VISN Director shall certify that the facility has correctly estimated the budgetary effect of its request and sufficient funds exist should a request be approved. The request and certification are then to be forwarded through the Chief Financial Officer (17) and the Chief Network Officer (10N) to the Deputy Assistant Secretary for Human Resources Management (051) for further action. *(NOTE: Field facilities will not submit requests for special salary rates for VHA General Schedule employees covered by this section under 5 U.S.C. 5305 unless specifically authorized to do so by the Under Secretary for Health or designee.)*

b. Contents of Requests

(1) A request for above-minimum entrance rates or special salary rate ranges should contain enough information for reviewing and approving officials to clearly identify the nature and extent of any recruitment or retention problems, the effect of these problems on the provisions of patient care, the role of non-VA Federal and non-Federal salary rates in the local labor market and the effect of any approved rates on the facility's budget.

(2) In unusual circumstances, above-minimum entrance rates or special salary rate ranges may be requested for the reasons outlined in paragraph 3a(2) through 3a(4) of this section. However, requests under those subparagraphs must be described in detail and contain pertinent supporting information. For example, an unusual situation may occur where filling vacant positions would result in a net cost savings over excessive premium pay costs, contracting, or fee-for-service alternatives. A request for rates may also be appropriate where a vacancy is affecting the provision of services, and the small number of employees in the position (one or a few) makes it difficult to base a request on past history of recruitment or retention problems as required by paragraph 3a(1).

(3) Guidelines for submitting requests for above-minimum entrance rates or special salary rate ranges are contained in the VHA Supplement to this chapter.

Authority: 38 U.S.C. 501(a), 7455.

6. ASSESSMENT OF NON-VA PRACTICES**a. Data Collection**

(1) Data may be based on a formal or informal sampling of the employers in the same labor market. Thus, published data such as negotiated agreements, recruiting literature, and published surveys should be used whenever available.

(2) Included employers should generally be those which are representative of the local labor market and those which have a significant impact of VA's recruitment and retention of employees in the affected occupational group(s). The sample should also include all non-Federal facilities in the local labor market which are affiliated with the primary local VA affiliation or index hospital (see par. 3A.09b(2) of VHA Supplement to sec. A of this chapter).

(3) Assessments should concentrate on job matches where the basic duties and responsibilities are similar to those found in the VA.

b. Public Relations. Data collectors are expected to maintain good public relations whenever dealing with non-VA organizations.

Authority: 38 U.S.C. 501(a), 7455.

7. PAY ADMINISTRATION

a. Establishing Rates

(1) Above-Minimum Entrance Rates (Including Above-Minimum Rates on a Special Salary Rate Range)

(a) When above-minimum entrance rates are approved or increased at a facility, salaries shall be adjusted to the new minimum rate for all affected employees in the same grade level whose salaries fall below such minimum rate. Such an increase is considered an equivalent increase in compensation.

(b) Concurrently, with action taken under subparagraph (a) above, the salary rate of all employees at the same step rate as the new minimum on the effective date of its approval shall be adjusted to the next available step rate in the grade concerned. An increase under this subparagraph shall also be regarded as an equivalent increase in compensation.

(2) Special Salary Rate Ranges

(a) If above-minimum entrance rates are not in effect, the normal pay setting procedures in 5 C.F.R. 530.306 shall be used when determining rates of basic pay. In other words, the employee shall be placed in the step rate of the special rate range which corresponds to his/her existing step rate.

(b) If the employee has been subject to above-minimum entrance rates in his or her current or former position, the special salary rate shall be based on the step rate the employee would have earned without regard to above-minimum entrance rates.

1. To arrive at the appropriate step rate, reconstruct the employee's employment history disregarding the effect the above-minimum entrance rates in the current and former grades. Appropriate credit, however, is to be given for quality step increases, appointments above the minimum based on superior qualifications, and for any within-grade increases the employee would have earned if no above-minimum entrance rate had been in effect. *(NOTE: The reconstruction is to be completed in the sequence in which it would have occurred and as if normal pay administrative procedures had been applied. This includes observing appropriate waiting periods, effective dates of within-grade increases, delays of within-grade increases because of excessive LWOP (leave without pay), withheld within-grade increases, etc.)*

2. The step rate selected under 1 above shall be the appropriate step rate unless the employee is eligible for a within-grade increases under subparagraph (c) below.

(c) Increases resulting from special salary rate ranges under subparagraph a (2) are not considered equivalent increases in compensation. Therefore, when special salary rate ranges are approved, the affected employees do not begin a new waiting period toward their next within-grade increase. *(NOTE: If an employee was at a step rate of the grade before the special salary rate range was approved, and the employee would be reduced to a lower step rate as a result of*

the special salary rate range, then the employee's eligibility for a within-grade increase must be determined. If the employee is immediately eligible for a within-grade increase, he or she shall be advanced to the applicable step rate and, if appropriate, begin a new waiting period on the effective date the special salary rate range was approved.)

(d) Notwithstanding subparagraphs (b) and (c) above, an employee shall not have his or her rate of basic pay reduced as a result of special salary rate ranges being approved. If an employee's basic rate of pay would otherwise be reduced, under subparagraphs (b) and (c) above, the employee shall be placed in the lowest step rate of the special salary rate range which equals or exceeds his or her existing basic rate of pay before the special salary rates were approved.

b. Reduced or Discontinued Rates. An employee's rate of basic pay shall not be reduced upon reduction or discontinuation of above-minimum entrance rates or special salary rate ranges. If an above-minimum entrance rate or special salary rate range is reduced or discontinued, an employee shall be placed in the lowest step of the applicable rate range which does not result in a reduction of his or her rate of basic pay. Pay retention is appropriate, however, if an employee has a rate of basic pay in excess of the applicable maximum rate of the grade which otherwise would be reduced as a result of a reduction or termination of special salary rate ranges. (See MP-5, pt. I, ch. 536.)

c. Determining Basic Rates of Pay Incident to Certain Personnel Actions

(1) Movements to Positions With Rates Approved Under This Section

(a) Promotion

1. An employee promoted (including transfer with promotion) shall first have his or her step rate in the higher grade determined in accordance with 5 U.S.C. 5334(b). However, this initial determination is to be made without regard to above-minimum entrance rates or special rate ranges in the higher grade. (*NOTE: Above-minimum entrance rates and special salary rate ranges under 5 U.S.C. 5305 and 38 U.S.C. 7455 shall be considered to meet the definition of existing rate of pay under 5 C.F.R. 531.202.*)

2. An employee's basic rate of pay is then fixed at a rate in the higher grade that reflects the above-minimum entrance rate or special salary rate range approved in the higher grade. This shall be the employee's rate unless he or she is entitled to a higher rate of pay under the "highest previous rate rule" (see subpar. (c) below) or to a higher retained rate of pay.

(b) Reassignment, Transfer, and Change to a Lower Grade. An employee being moved into a position with rates approved under this section shall first have his or her step rate determined without regard to above-minimum entrance rates or special salary rate ranges in either position. The employee's basic pay shall then be fixed at the step rate in the new position which reflects the above-minimum entrance rate or special salary rate range approved for that position. This shall be the employee's rate unless he or she is entitled to a higher rate under the "highest previous rate rule" (see subpar. (c) below) or to a higher retained rate of pay.

(c) **Highest Previous Rate**

1. Scope. Above-minimum entrance rates and special salary rate ranges approved under this section may be included in the highest previous rate,” subject to the provisions of subparagraph 2 below.

2. Use of Highest Previous Rate Rule. An above-minimum entrance rate or special salary rate range under this section may be used as the highest previous rate with prior approval of the appropriate VISN Director when:

a. The employee is reassigned to a position for which no, or a lower, above-minimum entrance rate or special salary rate range has been established; and

b. The appropriate VISN Director certifies that the need for the employee’s services, and his or her contribution to the Veterans Health Administration, will be greater in the position to which the employee is assigned.

c. Documentation. If an above-minimum entrance rate or special salary rate range is approved for use as the highest previous rate, the approval authority shall be documented in the “Remarks” section of the Request for Personnel Action (Standard Form 52).

(2) **Movements From Positions With Rates Approved Under This Section.** Pay determinations for employees moving out of positions with rates approved under this section are to be governed by the rules applying to the position in which an employee is being placed.

(d) **Effect of a General Pay Increase.** A general revision of the General Schedule under 5 U.S.C. 5305 will have no effect on rates approved under this section.

(1) **Above-Minimum Entrance Rates.** Employees receiving above-minimum entrance rates shall, upon completing the required waiting period on or after the effective date of the general pay adjustment, be advanced to the lowest step rate on the regular rate range which equals or exceeds their current rate of pay. In addition, the employee’s eligibility for a within-grade increase shall be reviewed at that time. Assuming an acceptable level of competence, the employee shall be advanced to the next higher step rate of the regular schedule if he or she did not receive an equivalent increase. On promotion, employees receiving the above-minimum entrance rate shall, as a minimum, receive a two-step increase. However, that amount shall be based on the schedule in effect when the above-minimum entrance rate was approved.

(2) **Special Salary Rate Ranges.** The fact that a special salary rate range may not correspond with the current regular schedule does not interfere with an employee’s entitlement to a step increase when due. The employee will receive whatever the pay rate is for the grade and step under the special rate schedule that applies to the employee. Also, other pay administration rules are not effected by the fact that a special salary rate schedule may not correspond with the regular general schedule.

(3) **Termination of Frozen Schedules.** An above-minimum entrance rate or special salary rate range is terminated whenever the entry rate or first step of the special salary rate range is lower than the minimum rate of the regular general schedule rate range for that grade.

8. INFORMING EMPLOYEES AND APPLICANTS. Applicants for positions for which above-minimum entrance rates or special salary rate ranges are approved, and employees who are paid such rates, are to be furnished information by the facility Human Resources Management Officer concerning the nature and effect of these authorizations.

Authority: 38 U.S.C. 501(a), 7455.

9. REVIEW OF ADJUSTMENTS. Field facility Directors are to ensure that rates approved under this section are reviewed at least annually to ensure that such rates continue to meet the provisions of paragraphs 3 and 4e of this section. This will be in addition to any reviews initiated by VA Central Office. Field facilities may be contacted individually and requested to submit updated information necessary for VA Central Office review purposes.

Authority: 38 U.S.C. 501(a), 7455.

CHAPTER 3. PAY ADMINISTRATION**SECTION D. ABOVE-MINIMUM ENTRANCE RATES, SPECIAL SALARY RATE RANGES, HIGHER ADDITIONAL RATES OF PAY VETERANS HEALTH ADMINISTRATION PERSONNEL APPOINTED UNDER TITLE 38, UNITED STATES CODE****1. SCOPE AND EXCLUSIONS**

a. **Scope.** The provisions of this section concern above-minimum entrance rate and special salary rates ranges for physicians, dentists, podiatrists, optometrists, nurses, nurse anesthetists, PA's (physician assistants), EFDA's (expanded-function dental auxiliaries), certified or registered respiratory therapists, licensed physical therapists, licensed/vocational nurses pharmacists, and occupational therapists appointed under chapter 74 of Title 38, United States Code. The provisions of this section concerning higher additional rates of pay (i.e., premium pay) apply to nurses, PA's, EFDA's and certified or registered respiratory therapists, licensed physical therapists, licensed/vocational nurses, pharmacists and occupational therapists appointed at VA health-care facilities under 38 U.S.C. 7401(1) or 7405(a)(1)(3).

b. **Exclusions.** Notwithstanding subparagraph a, the following personnel are excluded from the provisions of this section:

- (1) Physicians and dentists eligible for special pay under 38 U.S.C. 7431.
- (2) Residents appointed under 38 U.S.C. 7406.
- (3) Personnel employed on a per annum fee basis or lump-sum fee basis under 38 U.S.C. 7405(a)(2).

Authority: 38 U.S.C. 501(a), 7453(j), 7454 and 7455.

2. REFERENCES

- a. Section 7453(j), 7454 and 7455 of Title 38, United States Code.
- b. Section 2, VA Health-Care Programs Improvement and Extension Act of 1982, Public Law 97-251.
- c. MP-5, part II, chapter 3, sections A and E.

3. DEFINITIONS

a. **"Above-Minimum Entrance Rates"** means an increase in the minimum rate of basic pay for the grade with no corresponding increase in higher intermediate rates or in the maximum rate of pay for the grade.

b. **“Additional Pay”** means an additional rate of pay authorized under 38 U.S.C. 7453. These include tour differential, holiday pay, overtime pay, pay for service on a Saturday or Sunday, and pay for employees on-call outside their regular duty hours or on a holiday.

c. **“Category of Employee”** means an employee, or a group of employees, who performs service within a specialization of an occupation, e.g., pathologist, oral surgeon, operating room nurse, critical care nurse, etc.

d. **“Nurse”** means a nurse, nurse anesthetist, graduate nurse technician, or nurse technician appointed under 38 U.S.C. 7401(1) or 7405(a)(1), but it does not include student nurse technicians or the Deputy Assistant Under Secretary for Health for Nursing Programs who is appointed under 38 U.S.C. 7306.

e. **“Special Salary Rate Range”** means increase minimum intermediate and maximum rates of basic pay for a grade established under 38 U.S.C. 7455.

Authority: 38 U.S.C. 501(a), 7453(j), 7454 and 7455.

4. POLICY

a. **Recommending Rates.** Officials responsible for recommending or approving salary rate determinations (see MP-5, pt. 1, ch. 250, par. 12) are also responsible for detecting and reporting the need for rates under this section.

b. **Preconditions.** Submission of a request presupposes all recruitment possibilities have been exhausted and full attention has been given to addressing retention considerations such as working conditions and duty assignments.

c. **Above-Minimum Entrance Rates of Special Salary Rate Ranges**

(1) The above rates may be requested only to:

(a) Enable VA to recruit or retain well-qualified employees, or categories of employees, where recruitment or retention problems are being caused by higher non-Federal regular (nonovertime) rates of pay.

(b) Provide basic pay in amounts competitive with, but not exceeding, the amount of the same type of pay paid to the same category of health-care personnel in the same labor market.

(c) Achieve adequate staffing at particular facilities.

(d) Recruit personnel with specialized skills, especially those skills which are difficult or demanding.

(2) The maximum rate established for a grade under this section (except in the case of nurse anesthetists and licensed physical therapists) may not exceed the minimum rate prescribed by

statute for the grade by more than 90 percent. The maximum rate of basic pay for any employee so increased may not exceed the rate paid individuals serving as Assistant Under Secretary for Health.

d. Higher Rates of Additional Pay

(1) Higher rates of additional pay and additional pay for Saturday work may be approved so VA can recruit or retain well-qualified nurses, physician assistants and EFDA's, or any category of these employees, where recruitment or retention problems are caused by higher non-Federal rates of premium pay in the labor market.

(2) Approvals under this subparagraph shall be made at specific VA health-care facilities in amounts competitive with, but not exceeding, the amount of the same type of pay paid to the same category of non-Federal employees in the same labor market.

(a) The percentage of such hourly rates of basic pay determined to be necessary to recruit or retain the services of eligible employees; or

(b) The applicable percentage of additional pay for Sunday work. Full- and part-time employees are eligible for additional pay for Saturday work.

e. Other Limitations

(1) The authorities in this section are to be used as a management tool to enable VA to recruit and retain sufficient numbers of capable, well-qualified health-care personnel. However, pay rates may not be set at levels above those necessary to meet recruitment and retention needs.

(2) A requesting official must carefully examine his or her recruitment and retention experiences, competitive pay rates and supply of well-qualified candidates to first determine whether to submit a request and, second, if a request is to be submitted, which type of request would be most appropriate. If recruitment or retention problems are being caused by higher rates of regular (nonovertime) pay and the staffing problem is primarily recruitment, a request for above-minimum entrance rates is usually most appropriate. A request for special salary rate ranges is generally appropriate when a significant retention problem exists or when both recruitment *and* retention problems are in evidence. Similarly, a request for higher additional rates of pay should be requested whenever recruitment or retention problems are being caused by higher rates of premium pay in the local labor market.

Authority: 38 U.S.C. 501(a), 7453(j), 7454 and 7455.

5. RESPONSIBILITIES

a. **Under Secretary for Health** or designee is authorized to approve, adjust or discontinue rates under this section.

b. **Deputy Assistant Secretary for Human Resources Management** will advise management and operating officials on the policies and procedures contained herein.

c. **VISN Director** is responsible for designating a lead facility for the submission of a consolidated request whenever more than one VA health-care facility in the local labor market would be affected by the request.

d. **Facility Director** is responsible for submitting requests and for ensuring approved rates continue to meet the criteria contained herein. This includes recommending a reduction or discontinuation of rates whenever they are no longer appropriate.

Authority: 38 U.S.C. 501(a), 7453(j), 7454 and 7455.

6. SUBMISSION OF REQUESTS

a. **Where to Submit.** All requests shall be submitted to the appropriate VISN Director (10N_). Incomplete, improperly prepared or inappropriate requests will be returned by the VISN Director without further action. If approval is recommended, the VISN Director shall certify that the facility has correctly estimated the budgetary effect of its request and that sufficient funds would be available should the request be approved. The request and certification shall then be sent through the Chief Financial Officer (17) and the Chief Network Officer (10N) to the Deputy Assistant Secretary for Human Resources Management (051) for further action.

b. Contents of Request

(1) A request under this section should contain enough information for reviewing and approving officials to clearly identify the nature and extent of any recruitment or retention problems, the effect of these problems on the provisions of patient care, the role of non-VA Federal and non-Federal salary rates in the local labor market, and the effect of any approved rates on the facility's budget.

(2) Detailed guidelines for submitting requests are contained in the VHA Supplement to this section.

Authority: 38 U.S.C. 501(a), 7453(j), 7454 and 7455.

7. ASSESSMENT OF NON-VA PAY PRACTICES

a. Data Collection

(1) Data collection may be formal or informal. Thus, published data such as negotiated agreements, recruiting literature, and published surveys should be used whenever available.

(2) Included employers should be representative of the local labor market and have a significant impact on VA's recruitment and retention of employees in the affected occupational group. The sample should also include all non-Federal facilities in the local labor market affiliated

with the primary local VA affiliation or index hospital (see par. 3A.09b(2) of the VHA Supplement to sec. A of this chapter).

(3) Assessments should concentrate on job matches where the basic duties and responsibilities are similar to those found in VA.

b. **Public Relations.** Data collectors are expected to maintain good public relations whenever dealing with non-VA organizations.

Authority: 38 U.S.C. 501(a), 7453(j), 7454 and 7455.

8. PAY ADMINISTRATION

a. Above-Minimum Entrance Rates or Special Salary Rate Ranges

(1) Establishing Rates

(a) Above-Minimum Entrance Rates (Including Above-Minimum Entrance Rates on a Special Salary Rate Range)

1. When above-minimum entrance rates are approved or increased at a facility, the salary rates of all affected employees in the same grade whose salaries fall below such minimum shall be adjusted to that new minimum rate. Such an increase is not considered an equivalent in compensation within the meaning of this chapter.

2. Similarly, the salary rate of employees who have the same step rate as the new minimum shall be adjusted to a next higher available step rate in the grade. However, in this instance the increase shall be considered an equivalent increase in compensation.

(b) Special Salary Rate Ranges

1. If above-minimum entrance rates are not in effect, the employee shall be placed in the step rate of the special salary rate range which corresponds to his or her existing step rate before the special salary rate range was approved.

2. If an employee has been subject to above-minimum rates in his or her current or former position, the special salary rate shall be based on the step rate the employee would have earned without regard to above-minimum entrance rates:

a. To arrive at the appropriate step rate, reconstruct the employee's employment history, disregarding the effect of above-minimum entrance rates in the current and former grades. Appropriate credit shall be given for special advancements for achievement, special advancements for performance, and any periodic step increases the employee would have earned had above-minimum entrance rates not been in effect. *(NOTE: The reconstruction is to be completed in the sequence in which it would have occurred and as if normal pay administration procedures had been applied. This includes observing appropriate waiting periods, effective dates of periodic*

step increases, delays of periodic step increase because of excessive LWOP, withheld periodic step increases, etc.)

b. The step rate selected under subparagraph a above shall be the appropriate step rate unless the employee is eligible for a periodic step increase under subparagraph c below.

c. A pay increase resulting from the approval of a special salary rate range is not considered an equivalent increase in compensation. Therefore, affected employees do not begin a new waiting period toward their next periodic step increase. *(NOTE: If an employee had been at step 10 of the grade before the special salary rate range was approved, and if the employee is reduced to a lower step rate as a result of subparagraph (b)2 above, then the employee's eligibility for a periodic step increase must be determined. If the employee is immediately eligible for a periodic step increase he or she shall be advanced to the next higher step rate of the grade and, if appropriate, begin a new waiting period on the date the new special salary rate range was approved.)*

d. Notwithstanding subparagraphs a through c above, an employee shall not have his or her rate of basic pay reduced as a result of the approval of special salary rate ranges. If an employee's basic rate of pay would otherwise be reduced under subparagraphs a through c above, the employee shall be placed in the lowest step rate of the special salary rate range which equals or exceeds his or her existing basic rate of pay before special salary rates were approved.

(2) **Reduced or Discontinued Prices.** An employee's rate of basic pay shall not be reduced as a result of a reduced or discontinued above-minimum entrance rate or special salary rate range. If such rates are reduced or terminated, the employee shall be placed in the lowest step rate of the applicable rate range which does not result in a reduction of the employee's basic rate of pay. If the rate of basic pay cannot be accommodated within the rate range, the employee shall be entitled to pay retention. In other words, the employee shall be entitled to the rate of basic pay he or she received before the above-minimum entrance rate or special salary rate range was reduced or terminated. Then, if the scheduled rates of basic pay for the grade are increased, as the result of a general pay increase, the employee shall be entitled to 50 percent of the increase in the maximum rate of the grade. Pay retention ceases whenever:

(a) An employee's retained rate of basic pay becomes equal to or lower than the maximum rate of the grade.

(b) The employee becomes entitled to a higher rate of basic pay under this chapter.

(c) The employee has a break in service of one workday or more.

(d) The employee moves to a position, at his or her request, which is not covered by the above-minimum entrance rate or special salary rate range upon which entitlement to pay retention is based.

b. Determining Basic Rates of Pay Incident to Certain Personnel Actions**(1) Movements to Positions With Above-Minimum Entrance Rates or Special Salary Rate Ranges Approved Under This Section**

(a) **Promotion.** An employee promoted (including transfer with promotion) shall first have his or her step rate determined without regard to the above-minimum entrance rate or special salary rate range in the higher grade. The employee's basic rate of pay shall then be fixed at a rate in the higher grade which reflects the above-minimum entrance rate or special salary rate range approved for that position. This shall be the employee's rate unless he or she is entitled to a higher rate under paragraph 4c(2) of section A of this chapter or to a higher retained rate of pay.

(b) **Reassignment, Transfer and Change to Lower Grade.** An employee being moved to a position with rates approved under this section shall first have his or her step rate determined without regard to the above-minimum entrance rate or special salary rate range in either position. The employee's basic pay shall then be fixed at the step rate in the new position which reflects the above-minimum entrance rate or special salary rate range approved for that position. This shall be the employee's rate unless he or she is entitled to a higher rate under paragraph 4c(2) of section A of this chapter or to a higher retained rate of pay.

(2) Movements From Positions With Above-Minimum Entrance Rates or Special Salary Rate Ranges Approved Under This Section. Employees moving out of such positions shall have their rate of basic pay determined in accordance with paragraph 4, section A of this chapter.

c. Administration of Higher Additional Rates of Pay and Additional Pay for Saturday Work Approved Under This Section. Instructions concerning the higher additional rates of pay and additional pay for Saturday work will be provided with the authorization for such rates.

d. Effect of a General Pay Increase. A general revision of the General Schedule under 5 U.S. C. 5303 will have no effect on rates approved under this section.

(1) Above-Minimum Entrance Rates. Employees receiving above-minimum entrance rates shall, upon completing the required waiting period on or after the effective date of the general pay adjustment, be advanced to the lowest step rate on the regular rate range which equals or exceeds their current rate of pay. In addition, the employee's eligibility for a periodic step increase shall be reviewed at that time. Assuming an acceptable level of competence, the employee shall be advanced to the next higher step rate of the regular schedule if he or she did not receive an equivalent increase. On promotion, employees receiving the above-minimum entrance rate shall, as a minimum, receive a two-step increase. However, that amount shall be based on the schedule in effect when the above-minimum entrance rate was approved.

(2) Special Salary Rate Ranges. The fact that a special salary rate range may not correspond with the regular schedule does not interfere with the employee's entitlement to a periodic step increase when due. The employee will receive whatever the pay rate is for the special schedule that applies to the employee. Also, other pay administration rules are not

effected by the fact that a special salary rate schedule may not correspond to the regular salary schedule.

(3) **Termination of Frozen Schedules.** An above-minimum entrance rate or special salary rate range is terminated whenever the entry rate or the first step rate of a special salary rate range is exceeded by the minimum rate of the regular salary schedule rate range for that grade.

9. INFORMING EMPLOYEES AND APPLICANTS. Employees and applicants for positions with rates approved under this section are to be furnished information by the facility Human Resources Management Officer concerning the nature and effect of these authorizations.

Authority: 38 U.S.C. 501(a), 7453(j), 7454 and 7455.

10. REVIEW OF ADJUSTMENTS. Field facility Directors are to ensure that rates approved under this section are reviewed at least annually to ensure that such rates continue to meet the provisions of paragraphs 4 and 5d of this section. This will be in addition to any reviews initiated by VA Central Office. Field facilities may be contacted individually and requested to submit updated information necessary for VA Central Office review purposes.

Authority: 38 U.S.C. 501(a), 7453(j), 7454 and 7455.

CHAPTER 3. PAY ADMINISTRATION

SECTION E. BAYLOR PLAN

1. SCOPE AND EXCLUSIONS

a. **Scope.** This section sets forth VA policies and procedures for using the Baylor Plan and, except as indicated in subparagraph b below, it applies to nurses appointed at VA health-care facilities under 38 U.S.C. 7401(1) or 7405a(1)(A).

b. **Exclusions.** This section does not apply to nurses who are not providing direct patient care services.

Authority: 38 U.S.C. 501(a), 7456.

2. REFERENCES

a. Section 2, VA Health-Care Programs Improvement and Extension Act of 1982 (PL 97-251, September 8, 1982, 38 U.S.C. 7456, 96 Stat. 711).

b. MP-5, part II, chapter 7.

3. DEFINITIONS. For the purposes of this section, the following definitions shall apply:

a. **“Additional Pay”** means additional rates of pay or increased rates of additional pay authorized under 38 U.S.C. 7453. These include tour differential, Sunday pay, holiday pay, overtime pay, Saturday pay and pay for employees on-call outside their regular duty hours or on a holiday.

b. **“Administrative Workweek”** means a period of 7 consecutive calendar days which shall coincide with the calendar week, Sunday through Saturday.

c. **“Basic Pay”** means the annual rate of pay to which an employee is entitled under 38 U.S.C. 7404, including above-minimum entrance rate or special salary rate ranges authorized under 38 U.S.C. 7455.

d. **“Basic Workweek”** means two regularly scheduled 12-hour tours of duty contained entirely within the first and last day of the administrative workweek, Sunday and Saturday.

e. **“Baylor Plan”** means two regularly scheduled 12-hour tours of duty entirely within the period commencing at midnight Friday and ending at midnight the following Sunday.

f. **“Category of Employee”** means an employee, or group of employees, who perform service within a specialization of an occupation, e.g., operating room nurse, critical care nurse, etc.

g. **“Hourly Rate of Basic Pay”** means:

(1) For service during the basic workweek, the hourly rate of basic pay equals the annual rate of basic pay to which an employee is entitled divided by 1248.

(2) For service outside the basic workweek, the hourly rate of basic pay equals the annual rate of basic pay to which an employee is entitled divided by 2080.

h. **“Nurse”** means a registered nurse or nurse anesthetist appointed under 38 U.S.C. 7401(1) or 7405a(1)(A), but does not include graduate nurse technicians, nurse technicians, student nurse technicians, or the Deputy Assistant Under Secretary for Health for Nursing Programs, who is appointed under 38 U.S.C. 7306.

i. **“Weekend”** means the period commencing at midnight Friday and ending at midnight the following Sunday.

Authority: 38 U.S.C. 501(a), 7456.

4. POLICY

a. **General.** Requests will be considered only where there is evidence of recruitment or retention problems are being caused by work scheduling practices similar to the Baylor Plan.

b. **Preconditions.** Submission of a request presupposes all recruitment possibilities have been exhausted, full attention has been given to retention considerations, such as working conditions and duty assignments, and that full use has been made of available authorities to increase rates of basic and additional pay under section D of this chapter.

Authority: 38 U.S.C. 501(a), 7456.

5. RESPONSIBILITIES

a. **Under Secretary for Health.** In order to recruit or retain the services of nurses, the Under Secretary for Health may:

(1) Authorize use of the Baylor Plan at any VA health care facility.

(2) Further provide that nurses may be paid overtime for all or part of the actual amount of officially ordered and approved overtime services in excess of 40 hours in an administrative workweek.

b. **Deputy Assistant Secretary for Human Resources Management** shall advise management and operating officials on the policies and procedures contained herein.

c. **VISN Director** is responsible for designating a lead facility for the submission of a request whenever more than one VA health-care facility in the same local labor market would be affected by such a request.

d. **Facility Director** is responsible for properly submitting requests under this section and for ensuring any approved plan continues to meet the criteria contained herein. This includes responsibility for recommending discontinuance of the Baylor Plan when it is no longer appropriate.

Authority: 38 U.S.C. 501(a), 7456.

6. SUBMISSION OF REQUESTS

a. **Where to submit.** Requests are submitted to the appropriate VISN Director (10N_). Incomplete, improperly prepared or inappropriate requests shall be returned without further action. If approval is recommended, the VISN Director will certify that the facility has correctly estimated the budgetary effect of its request and that sufficient funds exist should the request be approved. The request and certification are then sent through the Chief Financial Officer (17) and the Chief Network Officer (10N)) to Deputy Assistant Secretary for Human Resources Management (051) for further action.

b. Contents of Request

(1) Requests should contain enough information for reviewing and approving officials to clearly identify the nature and extent of any recruitment or retention problems, the effect of these problems on the provision of patient care, the role of non-VA employers and the effect of any approval on the facility's budget.

(2) Guidelines for submitting a request are contained in the Veterans Health Administration Supplement to this chapter.

Authority: 38 U.S.C. 501(a), 7456.

7. APPOINTMENTS

a. **Type of Appointment.** Employees on the Baylor Plan are considered to be serving on a full-time basis for all personnel management purposes, except for the computation of full-time equivalent employment of FTEE (see MP-4, pt. V, ch. 15). Therefore, employees serving on less than a full-time basis must be converted to a full-time appointment, in accordance with chapter 2 of this part, upon or before being placed on the Baylor Plan.

b. **Conversions.** A nurse shall only be placed on the Baylor Plan at the beginning of the administrative workweek and taken off the Baylor Plan at the end of an administrative workweek.

c. **Preference.** When selecting nurses to be placed on the Baylor Plan, preference shall be given to current employees appointed under 38 U.S.C. 7401(1). Temporary employees may only be used as a last resort in order to obtain adequate nurse staffing.

Authority: 38 U.S.C. 501(a), 7456.

8. PAY ADMINISTRATION

a. **Basic Rates of Pay.** The hourly rates of basic pay for nurses on an approved Baylor Plan shall be determined in accordance with paragraph 3g above.

(NOTE: When computing additional rates of pay under subparagraph b below a nurse shall be entitled to basic pay only in accordance with paragraph 3g(2) above.)

b. Additional Rates of Pay

(1) A nurse on the Baylor Plan is not entitled to additional pay for service performed during the basic workweek.

(2) A nurse on the Baylor Plan is entitled to overtime pay under 38 U.S.C. 7453(e) or (j) for performing officially ordered and approved overtime service as follows:

(a) Service in excess of 24 hours on the weekend.

(b) Service in excess of 8 hours on a day other than Saturday or Sunday.

(c) All or part of actual service performed in excess of 40 hours in an administrative workweek, provided such payments were authorized under paragraph 5a(1) above. *NOTE: Hours of duty during the basic workweek shall be credited on an hour-for-hour basis when computing the amount of service performed during the administrative workweek.)*

(3) A nurse on the Baylor Plan performing service *outside* the basic workweek shall be eligible for any applicable additional pay under 38 U.S.C 7453(b)-(d), (f)-(h) and (j). This includes tour differential, Sunday pay, holiday pay, Saturday pay and on-call pay.

c. **Periodic Step Increases.** The following leave without pay (LWOP) is creditable for PSI purposes for R.N.s and nurse anesthetists:

(1) LWOP not to exceed 80 hours for periodic step advancement when the waiting period is 52 calendar weeks of creditable service.

(2) LWOP not to exceed 160 hours for periodic step advancement when the waiting period is 104 weeks of creditable service.

(3) The number of hours of LWOP taken by R.N.s and nurse anesthetists on the Baylor Plan shall be multiplied by 1.667 when making the above determination.

Authority: 38 U.S.C. 501(a), 7453, 7456.

9. HOURS OF DUTY, LEAVE AND HOLIDAYS. Policies concerning hours of duty, leave and holidays for nurses on the Baylor Plan are contained in chapter 7 of this part.

Authority: 38 U.S.C. 501(a), 7456.

10. FRINGE BENEFITS

Nurses on the Baylor Plan are considered full-time employees for the purposes of retirement, life insurance, health insurance and work injury compensation.

Authority: 38 U.S.C. 501(a), 7456.

11. OUTSIDE PROFESSIONAL ACTIVITIES

Nurses on the Baylor Plan are covered by the outside professional activities restrictions contained in 38 U.S.C. 7423 and VHA Directive 5113.

Authority: 38 U.S.C. 501(a), 7456.

12. REVIEW OF EXISTING PLANS. Field facility Directors are to review any Baylor Plans approved under this section at least annually to ensure that it continues to meet the provisions of paragraphs 4 and 5d of this section. This will be in addition to any reviews initiated by VA Central Office. Field facilities may be contacted individually and requested to submit updated information necessary for VA Central Office review purposes.

Authority: 38 U.S.C. 501(a), 7456.

CHAPTER 3. PAY ADMINISTRATION**SECTION G. ON-CALL PAY UNDER 38 U.S.C. 7457 AND STANDBY PAY UNDER 5 U.S.C. 5545(c)(1) FOR VETERANS HEALTH ADMINISTRATION (VHA) GENERAL SCHEDULE HEALTH-CARE EMPLOYEES****1. SCOPE**

This section contains policies and procedures for scheduling and paying certain VHA employees for on-call duty under 38 U.S.C. 7457 and standby duty under 5 U.S.C. 5545(c)(1). It applies to VHA General Schedule health-care personnel who are providing direct patient-care services or services incident to direct patient-care services, including licensed physical therapists (PT's), registered or certified respiratory therapists (RTs), licensed practical/vocational nurses (LP/VNs), pharmacists and occupational therapists (OTs) listed under 38 U.S.C. 7401(3). It also applies to personnel who meet the criteria specified in each of the subclauses (i), (ii) and (iii) of subsection (a) (2) (B) of 38 U.S.C. 7455. Personnel providing direct patient care services or services incident to direct patient care services excludes employees providing administrative, clerical, physical plant maintenance, and protective services. This section does not apply to those personnel authorized for payment of premium pay (including on-call pay) on the same basis as nurses under 38 U.S.C. 7454.

Authority: 38 U.S.C. 7457 and 5 U.S.C. 5545(c)(1)

2. REFERENCES

- a. 38 U.S.C. 7457
- b. 5 U.S.C. 5542, 5545 and Chapter 61.
- c. MP-5, Part I, Chapter 550, section A.
- d. MP-5, Part I, chapter 610 and VHA supplement thereto.

3. DEFINITIONS

- a. **Work Unit.** Means an entity located in one place with a specific mission and with homogeneous procedures or technology and headed by a supervisor or manager.
- b. **Administrative Workweek, Basic Workweek, and Regularly Scheduled Administrative Workweek.** Definitions are the same as specified in MP-5, part 1, chapter 610, paragraph 4.
- c. **Regular Duty Hours.** Means the combination of various basic workweeks for unit employees comprising those hours of the administrative workweek when regular work (actual duty) is performed.

d. **Standby Duty.** Scheduled tour requiring the employee to remain at the designated duty station, which may be the employee's home. A substantial part of the tour consists of remaining in standby status rather than performing work.

e. **Standby Duty Pay.** Annual premium pay in an amount not to exceed 25% of basic pay which does not exceed the minimum rate for GS-10; the percentage amount depends on the average number of hours employees in the work unit perform standby duty and the average number of Sunday work days.

f. **On-Call Duty.** Scheduled tour other than an employee's regular tour of duty which an employee shall be available for prompt return to duty to perform service. Normally, employees may be contacted by beeper or telephone.

g. **On-Call Pay.** Pay equal to 10 percent of the employee's overtime rate while the employee is in on-call status.

Authority: 38 U.S.C. 7457.

4. RESPONSIBILITIES

a. Facility Directors are authorized to do the following:

- (1) Designate work units whose employees may be scheduled for on-call duty; and
- (2) Grant exceptions to on-call duty policy to permit standby duty in these designated work units.

b. Human Resources Management Officers will advise management on the policies and procedures herein and maintain required records.

c. Supervisors will schedule and pay employees of designated work units for on-call duty or standby duty under this section, ensuring that sufficient numbers and kinds of personnel are scheduled during other than regular duty hours to carry out essential patient-care services in an efficient and economical manner.

Authority: 38 U.S.C. 7457

5. POLICY

a. When there is a need for employees to return to duty outside of their regular duty hours on an unscheduled basis, call-back overtime remains an appropriate means of providing employee coverage. On-call duty under 38 U.S.C. 7457 shall be used when it is essential for unit employees to be immediately available for a call to duty during other than regular duty hours (see subparagraph b below). Standby duty under 5 U.S.C. 5545(c)(1) shall be used only when an exception to on-call duty policy is authorized under paragraph 6 below.

b. In those situations or work units where assured availability of employees outside regular duty hours is essential to meet patient care needs, on-call duty under 38 U.S.C. 7457 shall be the preferred method of coverage. Except for employees eligible for standby duty pay retention under paragraph 9 below, an employee covered by this section who is officially scheduled to be on call outside the employee's regular duty hours shall receive 10 percent of the employee's applicable overtime rate for on-call duty. While in an on-call status, an employee shall be available for prompt return to duty to perform service.

6. STANDBY DUTY AS AN EXCEPTION TO ON-CALL DUTY

a. Exceptions to on-call duty may not be appropriate for hybrid occupations eligible for higher rates of premiums pay permitted under 38 U.S.C. 7454. Where higher rates of on-call pay in the local labor market are adversely affecting the recruitment and retention of employees in hybrid occupations, an adjustment to the rate of on-call is recommended.

b. When it can be demonstrated that on-call duty will not assure availability of employees for essential patient care needs, standby duty may be authorized as an exception to on-call duty. If authorized, employees will be paid standby premium pay in accordance with the provisions of 5 U.S.C. 5545(c)(1) and must meet all eligibility requirements for such payment. Standby duty may be authorized under this paragraph in the following circumstances:

(1) Assured availability of employees outside regular duty hours is impossible or impractical under the on-call system, e.g., geological or geographic characteristics of an area make use of a paging system inefficient;

(2) Conversions to on-call duty pay has resulted in recruitment or retention problems directly related to higher rates of on-call pay in the local labor market area. Evidence of higher rates of on-call pay may be based on formal or informal survey data, bona fide job offers, or newspaper advertisements. (NOTE: Care should be exercised to distinguish between pay-related recruitment and retention problems caused by higher rates of basic pay, which should be addressed by special salary rates under MP-5, Part II, Chapter 3, Section C or D, and those due to higher rates of non-Federal on-call or standby pay). Examples of staffing problems which might warrant approval of standby duty as an exception to on-call duty include, but are not limited to, the following:

(a) Vacancy rate of 10 percent or higher directly attributable to higher non-Federal on-call or similar pay.

(b) Turnover rate of 15 percent or higher directly attributable to higher non-Federal on-call or similar pay.

(c) An exception to the on-call duty policy under this paragraph may be authorized only for occupations and work units where there is a need for on-call duty.

(d) The Human Resources Management Officer will maintain the following information when standby duty is authorized as an exception to on-call duty:

- (1) The specific reason(s) why standby duty is considered preferable to on-call duty;
- (2) The title, grade level and number of position(s) to be placed on a standby schedule;
- (3) The tour of duty proposed (including all actual work periods and standby periods), specifying this schedule on a daily basis;
- (4) The total number of hours of actual work anticipated or customarily required of the position weekly;
- (5) What effect not authorizing standby duty as an exception to on-call duty will have on facility services, programs and operations; and
- (6) Any other pertinent information.

7. RESCISSION OF ON-CALL OR STANDBY SCHEDULES.

An on-call or standby tour of duty may be terminated in a work unit at any time the Facility Director determines that such tour is unnecessary or excessively costly. The decision and reason shall be specific and in writing and forwarded to the union prior to implementation. Rescissions of a on-call or standby tour and accompanying loss of on-call or standby pay by affected employees is not an adverse action under the provisions of 5 CFR 752.301 or 5 U.S.C. chapter 75, subchapter 11.

Authority: 38 U.S.C. 210(c)(1), 7457.

8. SCHEDULING AND PAY ADMINISTRATION

a. To the extent possible the scheduling provisions of MP-5, part 1, chapter 610, paragraph 3 shall apply to employees scheduled for on-call duty under this section. Procedures not in conflict with this policy, government-wide regulations, rules or law will be developed at the facility.

b. When called back to perform overtime work, the employee shall receive overtime pay under 5 U.S.C. 5542 in accordance with MP-5, part 1, chapter 610, section A, paragraph 7b(2). On-call pay shall be suspended during the actual period of overtime duty; when released from overtime duty the employee shall return to the remaining scheduled on-call duty, if any, and receive on-call pay accordingly. When the period of call-back overtime merges with the employee's regular tour of duty two hours minimum overtime pay does not apply (45 Comp. Gen. 53).

c. In the event of incapacitation or unavailable during the period for which the employee is scheduled to be on-call, such unavailability shall be promptly reported by the employee to the authorizing official or other appropriate responsible official. An employee who is relieved from

scheduled on-call duty shall not receive on-call pay during the period from which relieved from duty.

d. An employee who is excused from regular duty on a holiday, or day designated as the employee's holiday, may nevertheless be scheduled for and receive on-call pay during such hours of regular duty excusal.

Authority: 38 U.S.C. 210(c)(1), 7457

9. STANDBY DUTY PAY RETENTION.

a. **General.** An employee who is changed from standby duty to on-call duty shall instead be paid standby premium pay under 5 U.S.C. 5545(c)(1), to the extent it provides the greater biweekly pay benefit (see subparagraph c below) and the employee meets conditions of eligibility under subparagraph b below. This is standby duty pay retention, but not standby duty retention. Unless standby duty is authorized under paragraph 6 above, employees eligible for standby duty pay retention are converted to on-call duty. Under standby duty pay retention, each pay period the employee's entitlement for on-call duty pay is compared with their retained standby pay amount, and they receive whichever is greater. The annual standby premium percentage will remain fixed at the level which was in effect on the date of conversion to on-call duty, since the employees are no longer on standby duty.

b. **Eligibility.** Notwithstanding conversion to on-call duty, 38 U.S.C. 7457(c) requires employees to continue to meet all requirements for standby pay to be eligible for standby duty pay retention. An employee is eligible to receive standby premium pay under this paragraph (if determined to be the greater benefit) only if the employee:

- (1) Was in receipt of standby premium pay on May 20, 1988;
- (2) Is still in the same position and work unit for which standby premium pay was authorized on that date (this includes promotion or reassignment to a position in the same occupational series and in the same work unit for which standby premium pay was authorized on that date; and)
- (3) Continues to meet eligibility requirements for payment of standby premium pay, including restriction to duty station (which may be the employee's home when designated by the facility director) during periods of standby/on-call duty.

c. **Biweekly Pay Comparisons.** In making greater benefit comparisons under this paragraph the following shall apply:

- (1) **On-Call Pay.** The biweekly on-call pay entitlement shall include overtime pay during periods of call-back while in a scheduled on-call status as well as the on-call pay entitlement. For comparison purposes, it shall also include other forms of premium pay entitlement under Chapter 55 of Title 5, United States Code outside scheduled standby/on-call duty periods.

(2) **Standby Premium Pay.** The biweekly standby premium pay entitlement shall include Fair Labor Standards Act (FLSA) pay entitlements the employee would have received if the on-call duty had instead been scheduled standby duty. However, for comparison purposes, except for entitlement for irregular or occasional overtime work performed outside the scheduled standby/on-call duty, the biweekly standby premium pay entitlements shall exclude other forms of premium pay the employee may have otherwise been entitled to under Chapter 55 of Title 5, United States Code.

(3) **Comparisons Required Every Pay Period.** Biweekly pay comparisons shall be made every pay period for employees who maintain eligibility, even during biweekly pay periods when the employee was not scheduled for standby/on-call duty. Employees and/or their representatives may obtain an explanation concerning the computation of their pay under this section from the local fiscal activity in accordance with applicable laws, rules and regulations.

Authority: 38 U.S.C. 210(c)(1), 7457.